



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

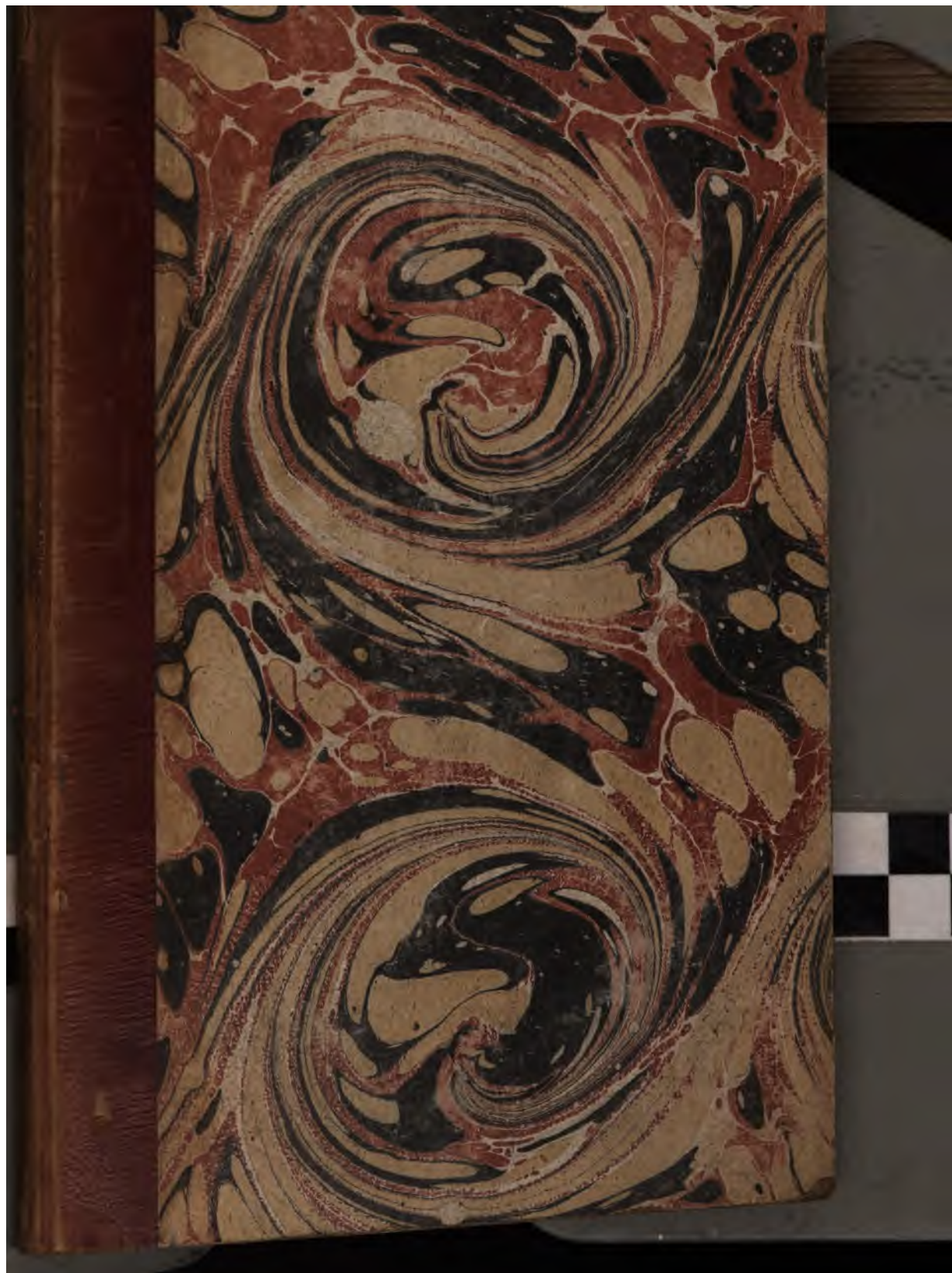
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

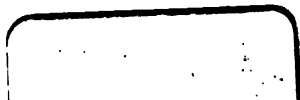




00053995.

42.

992.



3

LOANS

BY PRIVATE INDIVIDUALS TO

FOREIGN STATES

ENTITLED TO

GOVERNMENT PROTECTION,

BY THE

FUNDAMENTAL LAWS, AS A BRANCH OF TRADE;

BY PARLIAMENTARY RECOGNITION;

BY THE EXPRESS DECLARATIONS OF VATTEL;

BY THE

Opinion of an eminent living Jurist,

AND

BY THE OFFICIAL NOTES OF THE LATE CABINET.

LIBRARY

SECOND EDITION.

LONDON:
JAMES RIDGWAY, PICCADILLY.
1842.

. 992.

P R E F A C E.

THE serious attention of the Public is requested to this pamphlet as an *act of justice*. The British creditors of Foreign States, complain of a *grievance*. They complain that the Constitution has not been equally carried out to them, as to others. They complain that while they, on their side, have fulfilled the conditions, on which they have protection, they have been deprived of this advantage of the Constitution, of which none can *justly* be deprived, while they do so fulfil the conditions. Vattel, B. 1. c. 2. § 17. On this ground it is that the Author claims the attention of the public; and, in particular, of every Member of Parliament; for each and every member represents the subject, whether his constituent or not, who complains of a grievance.

Of course, it will be necessary to shew that they who complain of a grievance, have, as they aver, “fulfilled the conditions,” and suffered injury in a legal use of their property. This will be done. It will be shewn both *by a high legal opinion, and by Parliamentary recognition*, that the subject had, and has, the right and privilege to contract Foreign Loans, and that the Parliament of 1730 expressly left Foreign Loans in the hands and to the management of private individuals. It will also be shewn, that Vattel, in his Laws of Nations, expressly re-

cognises the validity of the Loan by a private individual to a Foreign State, if only made with those persons and powers of a State, lawfully entitled to contract in its name, as fully and entirely as he does that of any Public Treaty. Vattel, B. 2. c. 14. § 214, 15 and 16. Whenever, therefore, a Loan shall be found to have been lawfully contracted in all its circumstances, by a subject of this with a Foreign State, and to be in arrear, such subject (or they who represent him) has a perfect abstract claim on his Government for redress.

The question of the claim of the subject to protection in Foreign Loans, is raised in this pamphlet on the debt due by Portugal to certain subjects of this country. This will serve to settle the question as to the general right, and leave only the legal origin of each of the other Loans which may be in arrear to be proved, should the right be allowed.

The Author is perfectly aware that there are several prejudices in the public mind against Foreign Loans which may interfere with the course of justice; as for instance, that Foreign Stocks generally,* but those at present in arrear particularly, are speculative Stocks, and with which the public should have had nothing to do.

To this he replies that they did not begin as Speculative Stocks, (*which is the point*) however, through the neglect of Government, they may have become so. The names of the contractors, and the price they came out at, negative this.

* This is replied to in pages 4 and 5 of the work.

Brazilian 5 per Cents, at 75*l.* and 85*l.* per cent., by Rothschild's; and Rothschild's and Thomas Wilson, and Co.

Buenos Ayres 6 per Cents, at 85*l.* per cent, by Baring, Brothers.

Chilian 6 per Cents, at 70*l.* per cent., by Hullet, Brothers.

Columbian 6 per Cents, at 84*l.*, and 88½ per cent., by Herring Graham and Co. ; and by Goldschmidt and Co.

Mexican 5 and 6 per Cents, at 58*l.*, and 89¾ per cent., by

Peruvian 6 per Cents, at 88*l.*, 82*l.*, and 78*l.* per cent. by Fry's and Chapman.

Portugal's last loan, in a 3 per Cent Stock, came out at 72*l.* per cent., and by Rothschild.* The contractors of her previous 5 per Cent loans were Ricardo, Rothschild, and Goldsmid. Spain's last loan was in a 5 per Cent Stock, at 60*l.* per cent., and her contractors on previous occasions, Haldimand, Campbell, and Ricardo.

This statement is taken principally from "Fen's Compendium of the English and Foreign Funds,"

* Our own Government was not able to contract its 3 per cent. loans during the war at a higher price than 60*l.* per cent. At one period the price of Consols was as low as 45*l.* per cent., and if money had been wanted then, must have been raised at a lower figure still ; but nevertheless the interest would have been punctually paid. How much more should that, on one which came out at 72*l.* per cent., and which bespoke the credit of the borrower after an examination of his finances by Rothschild !

and has been extracted to show that the loans at present in arrear were not in their outset speculative stocks merely, but that there were reasons at the time which induced the above important and honourable firms, to contract at such prices.

Better prices were scarcely obtained by the old European States.

		Actual value in 1842.
France, 5 per cent. at 52 <i>l.</i> and 56 <i>l.</i> per cent, and to a vast amount in 1816, by Baring, Brothers		France, 119 45 cents.
Austria 5 per cent. at 82 <i>l.</i> per cent. by Rothschild		Austria, 112
Belgium 5 per cent. at 75 <i>l.</i> per cent. by Rothschild		Belgium, 105
Denmark 5 per cent. at 77½ <i>l.</i> per cent.		Denmark, paid off at par.
Prussia 5 per cent. at 72 <i>l.</i> and 84 <i>l.</i> per cent, by Rothschild		Prussia, 116
Russia 5 per cent. at 80 <i>l.</i> per cent. by Rothschild		Russia, 112
Dutch 5 per cent. at 85 <i>l.</i> per cent.		Dutch, 104

The Stocks then, at present denominated speculative, were not so at their outset, and would have yielded as large profits to this country, by increase of capital and annual return, as the above have done, if the Loan Contracts had been as strictly enforced as commercial and other treaties, and which, by right and privilege, they should have been.*

* The above statement proves at once the advantage derived to individuals lending capital to Foreign States, which are under the influence of honest principles, and actuated by a sound policy. The lending individuals and the State, benefit largely,

The South American States were borrowers for the first time, and supposed to be possessed of ample and improving resources. The default of Spain was attributed to the arbitrary will and injustice of Ferdinand, (who having raised money in this country under his Royal Sign Manual, and in conjunction with his Cortes, would not pay it) and was regarded as a matter which would, as was promised and arranged, be rectified under a constitutional form of Government, when public principles, which are always supposed, as they purport to be, those of justice and honour, should take the place of the will of an individual. The credit of Portugal was so good, that she obtained her last loan in a 3 per Cent Stock, at 72*l.* per cent., by which she reduced her 6 per Cents, and which was looked upon by the public as a prelude to the reduction of

not only by the return of a full interest, but in many cases by an immense increase of returned capital, that may vary from 30*l.* to 50*l.* per cent.

But how dismal is the opposite picture, how ruinous to private individuals and the State at large ! The millions lent to Spain and Portugal, and the South American States, have proved a naked loss, a dead drain, instead of support to the wealth of the country ; involving in utter ruin and misery whole families ; and, in a national point of view, disturbing the Exchanges in spite of every effort of the Directors of the Bank of England ; exasperating money panics, with which they have been on several occasions coincident, and of which they are one cause.

This subject, however, is too important to be treated with brevity. Enough has been hinted to develope its vast importance, and on a future occasion will be insisted on in detail.

her 5 per Cents. The public also relied greatly on the respectability and knowledge of business of the contractors, and who ought to be called on by Parliament to declare the grounds on which they recommended the Stocks as safe and good investments to the public. It is the contractor's duty, as well as interest, to examine into the finances of the State which he may be about to assist with money, for, when he offers the Stock to the public, he is supposed, by that very act, to certify that he has done so, and that the public may safely and advantageously take it off his hands. Parliament, therefore, should inquire of the contractors whether they now consider the representations of the borrowing States to have been intentionally deceptive; or, as honest, as they appeared at the time, sound and satisfactory. For, if deceptive; if they obtained the money under false pretences, it was an offence against the *State*, as well as against individuals. "Even the property of individuals, says Vattel, B. 2. c. 7. § 81, is, in the aggregate, to be considered the property of the nation, with respect to other States. It, in some sort, really belongs to her from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches and augments her power. She is interested in that property by her obligation to protect all her members." These gentlemen therefore should be called on to declare the true state of the case to Parliament, because, if the borrowing

States deceived them, Parliament and the executive cannot do less, as towards the country, than demand repayment of sums dishonestly obtained.

Such inquiry would also clear up the other point, because, if their representations to the contractors were as honest, as they appeared satisfactory, then the Stocks were not, as is imputed, mere speculative Stocks.

But if the Government was wiser than the Public; if it knew that these States were dishonest and would not pay, which the Public did not, as nobody intentionally throws his money into the gutter, why did it not prohibit the Loans, as Sir Robert Walpole felt it his duty to do, temporarily, in 1730, both to protect the State and individuals?

Instead of this, it has rather assisted to fulfil the above prophecy, for these Loans would have been observed, *or the money never borrowed*, had Government done its duty towards this branch of trade, equally as towards others, and fallen on the first defaulter, as it would in the case of the infraction of any other treaty, and as it did the other day on Naples.

In this view of the matter, then, Government is bound to recover its ground, and make up for previous remissness. And the indebted States, on their part, if honest, are also bound to act as private families do, pay the mortgage on their estates first and live on the remainder. If they will not do this, as Viscount Melbourne's Cabinet told the States of

Columbia, by the official notes of its resident ministers they ought to do, and which shall be given, then they should be looked upon as dishonest and treated as such. States which are honest, and inclined to make the most of their resources, are not easily bankrupt; but where they are not inclined to make the most of their means, they are dishonest and should be made to pay. The States in question had our money, and at the above high rates: on this account, therefore, as also that the money was legally lent; and moreover, as Government did not think it necessary, either on account of individuals, or the State, to pass a Statute of prohibition against Foreign Loans, according to Sir Robert Walpole's wholesome precedent; the principal and its arrears should be demanded, or else a satisfactory adjustment of the arrears, and a punctual discharge of the interest for the future.

The Public will hardly think it fair, that the State should take advantage of its own wrong against helpless individuals, and withhold both redress and compensation, and tax them on their bonds too.

Let the Government, then, appoint a committee, and call forward the contractors, and see where the fault lies, and ascertain what liberties have been taken with the English money market, and what course of conduct it becomes it to pursue as to past, and what, as to future Foreign Loans. Its duty to the Country imperatively requires that it look the whole matter in the face.

INDEX.

	PAGE.
The Debate of 1730, shewing the right and privilege of the subject to make Loans to Foreign States - - -	1
Origin of that Right - - - - -	2
Vattel's statement of the duties of a Nation towards itself with relation to the above, and similar points. The consequences therefrom - - - - -	4
The obligation of the State to protect the subject, from Vattel -	7
Further extract to the same point - - - - -	10
Opinion of Mr. Burge, Q.C., shewing the presumption cer- tainly to be that this State should compel Portugal to fulfil her contract with British subjects - - -	12
An objection taken on the part of the Government, "that because no party to the Loan, therefore it owes no redress," considered - - - - -	17
Second opinion of Mr. Burge, on this and other points -	21
Favourable result - - - - -	24
Vattel on Loans by private individuals to Foreign States -	25
A Nation cannot lawfully resist just reprisals, &c. -	28
Official Notes of Viscount Melbourne's Cabinet to the States of Columbia, shewing the intention of that Cabinet to compel payment to the English creditor - - -	29
Objection raised, "that if you coerce small States, you may be compelled to proceed against the stronger," &c. consi- dered - - - - -	33
Our own practice in this respect against Portugal, and other small States - - - - -	34
That of other Countries - - - - -	35

	PAGE.
Whether Foreign Loans are worse based in point of claim on Government protection than any other right, considered	36
Portuguese Decree considered, and the alternative in robbery which it offers to the British creditor	38
Duty of Government as regards the Empire, in this respect, shewn from Vattel	41
The robbery shewn to be an unproductive one to Portugal at present, and therefore most wanton, &c.	42
Other provisions of the Decree	44
The points arising out of this Decree, divided into three heads: 1st. its illegal nature, and the compulsory surrender it requires	46
2nd. The power of Portugal to pay more than she does	48
3rd. The fact of the acceptance of the Decree by a moiety nearly of the creditors nearly accounted for	55
There being nothing to hope from Portugal, the Bondholders should go to Parliament for redress or compensation	61
Compensation or redress, in the case of the Danish claims, carried in the House	62
Compensation given to the Planter who had invested his capital in Slaves	63
Subjecting Foreign Bonds to the Income Tax; its legality questioned, as they are not protected	63
Spanish Debt, and the gross inequality as between Englishman and Spaniard of her last Decree	67
Surreptitious Issues	69
Treasury Bonds	70
The Spanish Financier Pebrer's opinion on the conduct of Spain towards the Foreign creditor	72
General remarks; and the suspension of the Foreign Enlistment Act considered	75
Question asked, "Why lend money to these perfidious States," and considered	78
Why is not the principle adopted by Viscount Melbourne's Cabinet, viz., "That the interest due to British creditors	

	PAGE.
should be deducted from the gross revenues of the States, and the residue only is the real revenue those States have any right to apply to their own uses," enforced by this country - - - - -	79
The ordinary Government remedy for the cure of Foreign Loans stated and considered - - - - -	82
Prohibition or protection the only course worthy a Government, or just to individuals and the State - - - - -	84
Holders should petition, each Loan for itself, for redress or compensation, and to be heard by counsel at the bar -	86

FOREIGN LOANS.

SIR ROBERT WALPOLE, A. D, 1730,* passed an Act for the *temporary suspension* of Foreign Loans. Its object was not in any way to attack their principle, but simply to prevent the Emperor, Charles VI, who was supposed to be meditating war against this country, obtaining money here. Accordingly, that object having been attained, the Act was allowed to expire.

But temporary as it was, and reasonable, it was resisted in Parliament on the ground of its being an *unnecessary, and therefore unjustifiable restriction on commerce, and, as such, contrary to the fundamental laws, and a breach of the rights and privileges of the subject; and as tending, moreover, to make Amsterdam the market of Europe, and the mart for money to the nations of the Continent.* It was alleged to be unnecessary, because the Emperor would obtain money in Holland, and the British Merchant be thereby deprived of a profitable investment. The policy, as well as right, of Foreign Loans, was hereby asserted.

The Minister, on his part, did not deny the

* See Hansard's Debates, 3rd George II. c. 5.

general truth of these positions. Indeed, the very fact of his proceeding by Bill, sufficiently proves that the contracting of Foreign Loans, was, as asserted, a right and privilege of the subject, as a branch of trade, because no power, but Parliament, can touch a right and privilege of the subject. And Sir Robert allowed it to be a lawful branch of trade, for when he denied that by his Bill he was restraining any legitimate branch, *because*, before the second payment could become due on it, we might be at war with the Emperor, and the act, *therefore*, treasonable, he granted it to be, ordinarily and as alleged, the legitimate branch of trade, and the right and privilege it was contended to be. Moreover also, and in order to reconcile the House to the measure, he assured it that he pressed the Bill, *solely from the urgency of the occasion, and would be content to limit it to the shortest possible period of time ; and that, during its operation, His Majesty would readily allow his subjects to lend their money to his allies, and especially to his old and good one, the King of Portugal.*

From this Bill and debate, then, it clearly appears that the contracting of Foreign Loans was, as a branch of trade, a right and privilege of the subject ; and if a right and privilege, then was it a legal use of property ; and if a legal use of property, property so invested, was as much entitled to all the protection the State could give it, as property invested in any other branch of trade, or in-

deed in any other way. If the Minister had wished to rid the State of its obligation to give this protection, his course was clear, and he must have seen it. He needed only to have made his Bill, instead of temporarily and partially prohibitory, permanently and absolutely so.

But as it is of importance to shew how Foreign Loans, or any other branch of trade, is a right and privilege of the subject, and entitled to protection, I will endeavour to explain it, in the shortest manner possible.

By the Law of Nature, every man has a right to his property, and to defend that property. When, however, he associates himself with others to form a State, as he, thereby, gives the State liberty to curtail his natural rights in those respects, but those only, which are essential to the general welfare, so he binds it to give him, in all those uses of his person and property which it may leave open to him, as perfect security as it can. Of those uses, both of the one, and the other, which it may judge to be adverse to the general welfare, it deprives him; and therefore, in those of which it does not, it is bound to protect and defend him. All are naturally open to him; he has an *a priori* right to all, and to protection in each; and therefore it is for the State to except and forbid at once, or from time to time, such as it may find to be adverse to the general good. But by this debate it appears that the State had not excepted and for-

bidden Foreign Loans, and which, therefore, had remained, up to that period, a right and privilege of the subject, as a branch of trade, and which necessarily reverted to him, fully and entirely, when Sir Robert Walpole's Act was allowed to expire.

The mutual obligations, in the above respects, of the individuals who compose a State, are well expressed in the following passage from that chapter in Vattel, which treats of the general duties of a Nation towards itself. That writer, B. 1. c. 2. § 16. says,—“In the act of association, by virtue of which a multitude of men form together a State or Nation, each individual has entered into engagements with all, to promote the general welfare, and all have entered into engagements with each individual to facilitate for him the means of supplying his necessities, to protect and defend him.”

It is then on the principle of facilitating to each individual the means of supplying his necessities, and of which it would be as unjust to deprive him, unnecessarily, as it would be to levy on him an unnecessary tax, that every means to this end, trade in all its branches, and this of foreign loans amongst the rest, is, if possible, left open to the subject. The State however is not under a necessity from which it cannot escape, to leave them open, if, in its view of the subject, they are adverse to the general welfare; but, on the contrary, is bound, in such a case, to prohibit them, because of the engagement which each has entered into with all,

to promote the general welfare. If therefore it should leave them open, when it might as freely prohibit them, its act is a voluntary one, and the conclusion, legitimate and inevitable, that it does so, because upon the whole, and after a balance struck of advantages and disadvantages, it holds them to be conducive to the general welfare. The general welfare then being the principle on which alone any particular branch of trade, although an *a priori* right, can be continued to the subject as a right, the presumption clearly is, that neither the Parliament of 1730, *nor any subsequent one*, could have left Foreign Loans open and unrestricted as it found them, on any other than that of the general welfare;—unless, as an alternative! an acknowledgement be made of a uniform, and long continued neglect of the public interests.

But, however it happened, yet, as they have been left open, and by no necessity, but by a voluntary act, the State is pledged to the protection of those already contracted. The Country can have no right to encourage the subject to invest his property in Foreign Loans, as is done by this Debate, and the existing state of the law, and then deny it the protection which it extends to all other property at home and abroad. The perfect abstract right to it, is the subject's, and therefore, when Government may feel compelled to refuse protection, it must be in some particular case, and on some special ground, and as an exception to its general

obligation. It cannot withhold it on any such general grounds, as would go to justify a refusal in all cases equally and alike, and which would destroy the right to engage in Foreign Loans, by taking away that protection which is essential to its safe and beneficial exercise.

Their policy, and the right to engage in them, have been affirmed; and therefore until some other Parliament shall please to reverse the views and finding of that of 1730, the subject has a right to rest and act upon its authority, and that of the fundamental laws, and to find as perfect safety and security to his property, in so doing, as the State can give him. It has, plainly, been the duty of each and every Administration, since George II.'s time, and of Parliament for the Country, and also of the Country for itself, if either of these parties had seen all manner of inconvenience and impolicy, either temporary or permanent, in Foreign Loans, and from whatever cause, to have introduced a Bill against them. Sir Robert Walpole's precedent was before them. They had also the success of his measure both in doors and out, to encourage them to a renewal, or extension of the provisions of his Act.

In consequence of that Act no loan was raised for the Emperor, and he, in consequence, obliged to pursue a pacific policy. But no Ministry has the power, without clearly overstepping its functions, to put down the right to engage in Foreign Loans, either, directly, by Proclamation, or indirectly, by

denying that protection to the property invested in them, which it has by the fundamental laws. *This can only be done by Statute.*

Any individual has been and is perfectly authorised to engage in them, although he may be aware that the Ministry for the time being is adverse to them, and has threatened not to protect them. He is at liberty to argue that, although such be the case, yet the right has not been taken away by statute, to which alone he is obliged to attend ; and that the Ministry of to-morrow may take a different view of their policy, and, with George II.'s Parliament, hold that they ought not to be driven to Amsterdam, but kept in London ; or, at all events, better acknowledge and perform its constitutional duty to the subject and his property in the cases of those already contracted. He may affirm in the face of the entire country, that, in contracting and holding, he has not acted contrary to the general welfare, but only taken advantage of a right and privilege held to be for the general welfare and common advantage of the citizens, and, consequently, has neither released the State, nor any individual in it, from the engagement which each is under to him, to protect and defend him in that means of supplying his necessities.

The very binding nature of this obligation is thus expressed by Vattel. In B. 2, c. 6, § 71, he says—“ Whoever uses a citizen ill, indirectly offends the State, which is bound to protect this citizen, and the Sovereign of the latter should avenge his wrongs,

punish the aggressor, and, if possible, oblige him to make full reparation, *since otherwise the citizen would not obtain the great end of the civil association, which is safety.*"

In B. 1, c. 2, §. 17, he also speaks thus. "If a nation is obliged to preserve itself, it is no less obliged carefully to preserve all its members. The nation owes this to itself, since the loss even of one of its members weakens it, and is injurious to its preservation. It owes this also to the members in particular, in consequence of the very act of association, for those who compose a nation are united to their defence and common advantage, and *none can justly be deprived of this union and the advantages he expects to derive from it, while he on his side fulfils the conditions.* The body of a nation, therefore, cannot abandon a province, a town, or even a single individual who is part of it, unless compelled *by necessity, or the strongest reasons founded on the public safety.*"

According to this writer, therefore, the country cannot abandon its subject on any of those points in which it is bound to protect and defend him, whether in person, life, or property, unless necessity, or the strongest reasons founded on the public safety, render it necessary.

I beg, therefore, to call attention to these most important passages, and which have been left in all their integrity, and without diminution, by the last eminent editor of Vattel, the late Mr. Chitty. I submit that they are the master passages, and ex-

plain and govern those indefinite expressions of "the general welfare," "the good and welfare of the state," which are so capable of being made a peg to hang a pretext on. They show that the general good is not held to be interfered with, by reprisals and war when necessary. And of course not, for reprisals and war were granted by international law, and are constantly used for the very purpose of supporting the general good, by upholding the rights of the State and its subject. The possession of sufficient power, then, would seem to be the rule by which the obligation on the State to grant its subject redress is governed. And so it should be, for in the formation of States, the individual does not surrender his native rights, especially such a vital one as that to recover his property, in exchange for a general and undefined protection by the State, if the rule by which such protection is administered be at all capable of definition. He has a right to definition where he can have it, or the nearest approach to it. And, in consequence, I contend that, whereas "the general good," and such like expressions in limitation of the subject's perfect abstract right to redress under all injuries, are indefinite, and so far unsatisfactory, the above doctrines which have clear reference to the power to give it with anything like safety to the State, are, comparatively, definite, and therefore, as less liable to perversion, more just and honest to the subject. They answer, also, more exactly to that course which an individual, before

he joins a community, would be sure to take for the recovery of his property if he had sufficient power; he would compel the restoration of it.

In confirmation of the above views, I cite the following passage from B. 2, c. 18, § 325, of this same writer, and which will be found more definite than the doctrine in the preceding ones, and serve to show that, in obedience to a necessary policy, if a State have anything like sufficient power to obtain satisfaction for a wrong, she is bound to exert such power to that end.

.

“And as to injuries, it is often laudable in a citizen generously to pardon them: he lives under the protection of the laws: the magistrates are capable of defending or avenging him against those ungrateful or unprincipled wretches, whom his indulgence might encourage to a repetition of the offence. A nation has not the same security: it is seldom safe for her to overlook or forgive an injury, unless she evidently possess sufficient power to crush the rash aggressor who has dared to offend her. In such a case, indeed, it will reflect glory on her to pardon those *who acknowledge their faults*,—

Parcere subjectis, et debellare superbos;

and she may do it with safety. *But between powers that are nearly equal, the endurance of an injury without insisting on complete satisfaction for it, is almost always imputed to weakness or cowardice; and seldom fails long to subject the injured party to further wrongs of a more atrocious nature.”*

By this passage, then, we ascertain what the "necessity or strongest reasons founded on the public safety," previously mentioned, and considered as a bar to redress, *is not*. It would appear that it is not a near approach to equality between States, which can be considered as that necessity, or strong reason, which should prevent a Government demanding satisfaction for the injury its subject may have received. If a hard and absolute necessity is not the only legitimate bar, the reason which is, should, at all events, be stronger than that afforded by a near approach to an equality in power. How then can this State justify itself for having neglected to demand justice for its subject of the petty State of Portugal which has robbed him, and is continuing to rob him day by day? How can this State, which could crush Portugal to powder, excuse itself to its subjects for allowing this petty robber, as she shall be proved to be, to prey on them, and look on calmly and apathetically?

I will not here introduce any appeal to what is due, both to the British Government and British subjects, in common gratitude for services rendered to Portugal, or I might expatiate thereon at great length. I will only say that such conduct as Portugal is pursuing, could hardly be expected of a State which owes to this its national existence and dynasty; which has been saved by it from the jaws of Spain and France on several signal occasions, and which must still find shelter, in time future, under the same protecting arm. Previously,

however, to exposing the true nature of the Portuguese decree in satisfaction of their debt, I shall proceed to lay before the reader the opinion of Mr. Burge, Q.C., on the right, generally, of the subject to claim protection and redress of the Government against a foreign one, in the matter of Loans, and against Portugal in particular.

A. B. is the holder of Portuguese bonds on which an arrear of three years dividends is now due.

A translation of one of the bonds is herewith sent.

Your opinion is requested,

1st. Whether the holders of such bonds have a right to call upon this Government to make reprisals for the purpose of compelling payment of the Dividends, or to authorise them (the holders) to make such reprisals.

2d. Whether there are any, and what means, by which the holders can make any property belonging to the Portuguese Government in this country available for the payment of such Dividends.

“ There is no doubt that the refusal by a State to perform an engagement which it had contracted with another State, *or with the subject of another State*, or its positive refusal, or evasion of his application for redress, or its interposition of any obstruction in his prosecution of the ordinary means of redress, constitutes a legitimate and just ground, on which either reprisals may be granted, or war declared by the State with whom or with whose subject the engagement has not been per-

formed, for the purpose of enforcing its performance, or of obtaining indemnity for its non-performance.

“ *Jure gentium voluntario induci potuit et induc-tum apparet, ut pro eo, quod debet præstare civilis aliqua societas, aut ejus caput, sive per se primo, sive quod alieno debito jus non reddendo se quoque abstrinxerit, pro eo teneantur, et obligata sint bona omnia corporalia, et incorporalia eorum, qui tali societati, aut capiti subsunt. H. Grotius de jure belli ac pacis, lib. 3. c. 2. §. 2.*

“ This commentator gives this definition of re-prisals.

“ *Repressaliæ sunt, quando pro injuriâ a principe illatâ ejus subditi, vel horum bona, ab alio populo capiuntur, donec satisfiat. Repressaliæ igitur sunt veræ pignorationes, quando scilicet pro injuriâ ab altero illatâ, subditorum bona vel personæ prensantur, i. e. pignori capiuntur donec alter satisfaciat.*

“ *Repressaliæ eodem jure licitæ sunt, quo bellum.*

“ *Uti enim bello non obtinet nisi ubi aliter jus meum reparari non potest, ita nec repressaliæ locum habent nisi ex eadem necessitate. Uti igitur bello propter injuriam a principe extraneo nobis illatum, subditorum res et personas capere possum, quia subditi factum principis probare, illud que tueri tenentur, ita eadem ratione, propter eandem injuriam, extra bellum capere subditorum res et personam possum, usque dum Princeps satisfaciat. Coccius ad comment. ad H. Grotius, lib. 3. c. 2. § 2.*

“ Heineccius, another commentator on Grotius,

lib. 2. c. 16. § 10., also speaks in the same terms of reprisals, and illustrates his description by an example to which he refers.

“Repressaliæ sunt jus quò Imperans utitur quum sibi vel subditis justitia denegatur, ut gentis istius bona tam diu in arresto constringantur donec sibi suisque satisfactum sit; e. g. Fridericus Gulielmus frustra a Rege Hispaniæ exegerat æs alienum, ergo armabat navem, et Hispanicam navem intercipiebat.

“Reprisals, says Vattel, (*Droits des Gens*, liv. 2. c. 18. § 342.) are used between nation and nation in order to do themselves justice when they cannot otherwise obtain it. If a nation has taken possession of what belongs to another; *if it refuses to pay a debt*; to repair an injury, or to give adequate satisfaction for it, the latter may seize something belonging to the former, and apply it to its own advantage till it obtains payment of what is due, together with interest and damages, or keep it as a pledge till the offending nation has refused ample satisfaction. The effects thus seized are preserved, while there is any hope of obtaining satisfaction or justice. As soon as that hope disappears they are confiscated, and the reprisals are accomplished. If the two nations on this ground of quarrel come to an open rupture, satisfaction is considered as refused from the moment that war is declared or hostilities commenced; and then also the effects seized may be confiscated.

“See also Bynkershoek, *Quæst. jure pub.* lib. 1. c. 24, u Huber, *de jure civitatis*, lib. 3. c. 10.

“ It is unquestionably the duty of the State to procure for its subject redress *for any injury* he may have received from a foreign State ; or from a subject of such foreign State. This redress is as much an end and a duty of political society, as is the protection of the subject by the State against injustice by his fellow-subjects. The manner in which that duty is to be discharged and that end obtained, is for the supreme authority of the State whose subject is thus aggrieved to call upon the State by whom or by whose subject the injury has been inflicted to grant complete redress.

“ It follows from these undoubted principles that, as an abstract proposition, the creditor of a foreign state, not interdicted by the laws of his own country from contracting, and therefore the holders of these Portuguese bonds have a right to all the assistance their own Government can afford them in obtaining payment of their demand.

“ The assistance which it is in their power to give and which *primâ facie* they are bound to give, is a demand of payment from the Portuguese Government, and in case of refusal, a resort to the mode pointed out by the laws of nations, when one state violates its obligations to another by the injury itself commits, or sanctions its subject in committing.

“ Of course, a state, in the discharge of the duty it owes its own subjects, must provide for the general good, and this mode of redressing the injury which individuals or classes of its subjects may have sustained from a foreign state may be incompatible

with the general good. The obligation of the Government to enforce this redress by reprisals or by war, can never be treated as an absolute positive obligation, the performance of which is even morally imperative upon the Government.

"But certainly the presumption is, that its assistance ought to be given, and that presumption is strengthened by the relative position and powers of the two Governments."

"2nd. I do not consider that there are any means by which the holders of these bonds can make any property belonging to the Portuguese Government available for the payment of the dividends thereon.

WILLIAM BURGE.

"1, Paper Buildings, Temple,
March, 30th, 1841."

The following additional opinion was procured from Mr. Burge in explanation of the first.

"MY DEAR SIR.

"I intended in the observations I made in my first opinion to allude to the possibility of a Government being fully justified in abstaining from reprisals or war, by considerations affecting the general interests of the whole community, and which might be paramount in their importance and extent to those which affected any individual, or class of individuals, *and I did not intend to confine my remark to Foreign Loans. It would comprise any other injury*, although it is difficult to lay down *a priori* any thing like a

principle applicable to cases which might so vary in their character and consequences.

I am, my dear Sir,

Your's very faithfully,

WILLIAM BURGE.

"1, Paper Buildings, Temple,
15th April, 1841."

This Government, therefore, is bound to state on what grounds it is incompatible with the general good of the country, in these times of financial distress, to compel Portugal to pay with regularity the interest on eleven millions of debt.

But let us suppose it to take an objection, *in limine*, and say that, *because no party to the Loans, therefore, it owes no redress.*

This position is manifestly untenable by the preceding opinion and reasoning, because its scope is to deny *the abstract right and destroy it, by refusing redress in all cases equally and alike.*

The subject has, as has been before remarked, an *à priori* right, in virtue of his original and native rights, to every branch of trade existing, or that may arise. If the Government object to any one of them, and can persuade Parliament to take the same view, it may be taken away from him, or submitted to regulation. Should the Government pass neither a measure of prohibition, nor even regulation against it, the subject uses it as he finds it, and is entitled in that use of it, to the same protection which he enjoys in any other branch of

trade. He is justified in supposing that the Government left it open and in the state in which he finds it as to regulation, because, in that state, most conducive to the general welfare. And such is the case of Foreign Loans: the Government has neither passed an act to prohibit, or regulate them, and therefore the subject uses the right as he finds it.

Parliament in 1730 had the subject of Foreign Loans before it. Sir Robert Walpole's bill proposed a temporary restriction. It gave the Crown the power of allowing or disallowing any Foreign Loan at its pleasure. The House, had it pleased, might have made that regulation permanent, or extended it to absolute or entire prohibition. *Sir Robert suggested to the House that the Crown ought always to have the power of licensing Foreign Loans.* The Attorney-General thought so too. His Majesty, he said, had by the common law the power to prevent his subjects giving the use of their persons to the enemy, and therefore ought also to have a like power over their purses, which might be even a more effectual assistance than that of their persons. *Nevertheless, although the matter was so plainly suggested to the House, the House did not take it up, but left the Minister to pass his bill as he had asked and framed it, with the restriction limited to the shortest possible period of time.* The Opposition, indeed, among whom were D. Pulteney, Barnard, Wortley Montague, roundly declared that, in the Government, foreign loans would be a job.

I therefore feel at liberty to say that the House did not think it adviseable that the Crown should have, permanently, the power of licensing Foreign Loans, but deliberately left them in the hands and to the management of the subject. The House probably thought that if a necessity at any time rose, the Minister might have his remedy, as in this instance, by a temporary Act. Government, therefore, is not at liberty to plead that, *because no party, therefore it owes no redress.* The Parliament of 1730 knew *where it was leaving Foreign Loans*, and therefore its act was as express, formal, and complete, as if it had placed a law in the statute book to the effect, that they should continue in the hands and management of private individuals, rather than in those of the Government. If succeeding Parliaments have thought this arrangement bad, why have they not altered it, or prohibited Foreign Loans altogether? But as they have not done so, it follows, “as an abstract proposition, that the creditor of a foreign state, *not interdicted by the laws of his own country from contracting, and therefore these Portuguese bondholders, have a right to all the assistance their own Government can afford them in obtaining payment of their demand.*” Mr. Burge had a copy of a Portuguese bond before him when he gave his opinion, and by which he saw that this Government was no party to the contract, but, nevertheless, declares the presumption certainly to be, that it should proceed against Portugal for the

recovery of the debt, in the way pointed out by International law.

That this plea will not avail the Government may be seen from the following considerations :—

Let us suppose a subject to go abroad, and having suffered some injury in person or property, that his suit in prosecution of redress is obstructed by the Foreign Government. What is his position?

According to Vattel, B. 2, c. 8, § 107; “The citizen, or subject of a State, who absents himself for a time without any intention to abandon the the society of which he is a member, does not lose his privilege by his absence, but preserves his rights, and remains bound by the same obligations.”

What is the duty of his Government under these circumstances? According to this same Jurist, by B. 2, c. 18, § 150, it is as follows: “We have said that we ought not to make reprisals except when we are unable to obtain justice. Now justice is refused in several ways :—First, by a denial of justice properly so called, or by a refusal to hear your complaints, or those of your subjects, *or to admit them to establish their right before the ordinary tribunals.*”

This right might be a right to a stipulated interest on money lent the foreigner on his bond, or mortgage of his estate. It might be this as well as anything else. And if so, and it be withheld, and redress obstructed, this Government,

although no party to the loan, is bound to compel payment, if in its power, and by reprisals. And if in such a case as this, why not in that of the Portuguese Bondholders? Where is the difference?

The Portuguese Committee, however, in order to render all inference unnecessary, submitted this and two other possible objections, to the same learned gentleman, in a direct form, in order to obtain direct and explicit replies, although it considered that they had been, all of them, substantially and to all intents and purposes, answered by his first opinion, and which, but for brevity's sake, it would be most easy to shew.

The objections submitted were as follows:—

- 1st. That the Government of this country being no party to the Loans, is not bound to give redress to the holders of Portuguese bonds.
- 2nd. That the risk of a foreign war which would be incurred by the Government, either making reprisals themselves, or authorising the holders to do so, is a sufficient reason against adopting either course.
- 3d. That it is impolitic to encourage the employment of capital abroad.

Your opinion therefore, is requested;—

Whether all or any of the above reasons afford a sufficient ground for the Government of this country refusing either to

make reprisals, or to authorise the holders of these bonds to make reprisals for the purpose of compelling payment of their demands.

“The further consideration of the question submitted to me in March, last year, has not led me in any respect to recede from, or alter the opinion I gave on the 30th of that month, or to believe that the authority and conclusiveness of the doctrine maintained by the eminent jurists to whom I referred, could be doubted.

“1st. Whatever other considerations may influence a Government in determining whether it will exert all its power to procure for its subjects, payment of a debt which a foreign State has contracted with them, it never has been considered by jurists, nor can it be contended to be essential, either to give the subject a claim on his Government, or to create an obligation on the part of the Government to assist him with the exercise of its power, that it had consented, or been a party to the contracting of the debt by the foreign State, or had guaranteed its repayment. The previous consent could be only necessary when the law of the country had prohibited any loan, unless with the previous license of the executive. The Act enabling his Majesty by Proclamation, to prohibit any loan to a foreign State without having obtained his Majesty's license, passed in 1780, for two years only, (3 Geo. 2. c. 5) affords a proof of the perfect freedom, with which

the subject might have contracted a loan with a foreign State in amity with Great Britain, if that Act had not imposed a restriction on it; and the discussion in passing the Act shows the jealousy with which this restriction was regarded, and the anxiety felt by the Minister, to establish a case of necessity which might justify it.

“2nd. It would not be possible to say whether the prospect of a war may furnish an adequate justification to a Government for abstaining from taking those measures which are intended to redress the wrong which the subject has received from a foreign State. It may be that a war may be to the whole community a much greater evil, than that which it sustains from the insecurity which must be felt when redress is not obtained from the foreign State for the wrong committed on a portion of that community: *but looking at the relative situation of the two countries, I cannot imagine that the prospect of a war would afford a justification for the Government's refusal to interfere in this case.*

“3d. Whilst the law does not interfere to prohibit such loans, the policy of loans to a foreign State ought not, and cannot, I conceive, influence the consideration of the executive in determining whether it should use its power in compelling that State to repay the loan it has contracted.

“WILLIAM BURGE.”

“1st March, 1842,
1, Paper Buildings, Temple.”

Now, no one can deny that the above objections were plainly and fairly put to the learned counsel.

And what has been the result?

He declares, explicitly, that neither the question of the policy of Foreign Loans, nor the fact of the Government being no party to them, ought to be any bar to the redress prayed.

And with regard to the risk of war consequent on reprisals being so, what does he say? As respects Portugal that it ought to be none. In his first opinion, he states the presumption certainly to be, that this Government should proceed according to the mode prescribed by international law for the recovery of the debt. In this last, given at the interval of a year; "that he cannot imagine the prospect of a war with Portugal to afford a justification for the Government's refusal to interfere in this case." The risk of war was put to Mr. Burge in a general form, and as an absolute bar to redress. By repeating his opinion, that this Government ought to proceed against Portugal, he negatives it in its absolute form. It may be so, he says (and of course it may, for we should hesitate to attack a combination of the maritime states), but it is impossible to decide without the case. In his note in explanation of his first opinion, he states it to be no more a bar in the case of Foreign Loans, than of any other injury. Our claim to protection, therefore, is on a par with that of any other right.

A more favourable result to an inquiry could not

have followed. The nature of things does not always admit of a wrong, however great, being avenged by war. Portugal, for instance, would not attack North America, *even for the life of a subject*, although Great Britain could and would ; or North America, Great Britain.

It was not possible that the bondholder could have the right to war absolutely, but he has all that he could expect to have. According to Mr. Burge, the wrong he has suffered is as much entitled to it, as any other injury ; and, *according to Vattel, this redress should be given even in the case of a near approach to equality between the states implicated ; and only not, when necessity, or the strongest reasons founded on the public safety, forbid it.*

If, under these circumstances, the Portuguese, Spanish, and other committees, do not carry their cases to Parliament, the *bondholders ought for themselves.*

International law fully recognizes the validity of a contract between a private individual and a foreign State ; and it so happens, that Vattel has expressly treated of loans by *private individuals to a foreign State*, as a transaction in which they may be expected to engage ; and classes them, *as to the rights they confer, and the obligations they create, with public Treaties ; and declares them to be as good as if made between State and State.*

B. 2, c. 14, § 214. “ The conventions and contracts which the sovereign, in his sovereign cha-

racter, and in the name of the State forms with individuals of a foreign nation, fall under the rules we have laid down for public treaties. In fact, when a sovereign enters into a contract with one who is wholly independent of him, and of the State, whether it be with a private person, or with a nation or sovereign, this circumstance does not produce any difference in the rights of the parties."

§ 215. "When a lawful power contracts in the name of the State, it lays an obligation on the nation itself, and consequently on all future rulers of the society. When, therefore, a prince has the power to form a contract on the part of the State, he lays an obligation on all his successors, and these are not less bound than himself to fulfil his engagement."

§ 216. "The conductor of a nation may have dealings of his own, and private debts; and his private property alone is liable for the discharge of those debts. But loans contracted for the service of the State; debts incurred for the administration of public affairs, are contracts in all the strictness of law, and obligatory on the state and whole nation, which is indispensably bound to discharge those debts. When once they have been contracted by lawful authority, the right of the creditor is indefeasible. Whether the money borrowed has been turned to the advantage of the State, or squandered in foolish expenses is no concern of the person who lent it; he has entrusted the nation with his property and the nation is bound to restore it him again:

it is so much the worse for her, if she has committed the management of her affairs to improper hands."

But international law does not stop here. It seeks to render the execution of the law as easy and safe as possible. Agreeably to this, it declares two things:—

1st. That a nation cannot lawfully resist just reprisals.

2nd. That no State owes assistance in an unjust war.

How easy and safe, then, is the position of such a state as Great Britain, if her subjects have debts against foreign nations; and, especially, if the wrong has been doubled, and a resort to reprisals, more than justified, rendered imperatively necessary by years spent in vain in representations and remonstrance.

Will Great Britain, in the face of such a state of the law, *pretend that she fears a war, with all its attendant evils*, if she compel such a state as Portugal to pay her debts? If she do, will not every one recognise, through the thin veil, a mere pretext against the bondholder; and an attempt to put down his right to engage in Foreign Loans, *indirectly*; and by the just and honourable means of sacrificing his property, to the injustice and cupidity of foreign states? If she do, will not a demand for compensation, justly, and deservedly lie against her?

The late North American Minister at this Court, (and his own countrymen had better read and

ponder his opinions,) is known to have declared that our Government was bound to interfere, and that Lord Palmerston ought to compel Portugal to make payment of her debt, as his Government had done France.

The extracts from Vattel above alluded to, are as follows :

B 2. c. 18. § 353. " After having demonstrated the lawfulness of making reprisals where we can no otherwise obtain justice, we may thence readily conclude that a Sovereign is not justified in making forcible opposition to, and waging war against the party, who by ordering or making reprisals, in such a case, only exerts his just right."

B. 2. c. 12. § 168. " The justice of the cause is also another ground of preference between two allies. We ought even to refuse assistance to one whose cause is unjust, whether he be at war with one of our allies, or with another State. To assist him in such a case, would be, in the event, the same thing as if we had contracted an alliance for an unjust purpose, which we are not allowed to do."

When the rights of the subject are sought to be got rid of by one pretext or other, and amongst the rest by a fear of war, such clear passages as the above, *which take the sword out of the debtor's hand, and deprive him of the loan of one by other parties*, are to the last degree important.

But not less so is the fact, that we are able to support the above reasoning and opinions of counsel,

by the officially declared views and intentions of the late Administration.

Two of the letters which, by the instructions of the late noble Foreign Secretary, were addressed to the States of South America, by our resident Ministers there, have come into the possession of the public, and are as follows.

“ British Legation, Caraccas,
May 1st, 1840.

“ SIR,—I have the honour of informing you, that by the Mail, which reached La Guavra yesterday afternoon from England, I received a despatch from Viscount Palmerston, directing me to afford all the support in my power to the representations made by the agents in Venezuela of the British bondholders, to the Venezuelian Government, and urge that Government to furnish its representative in London with such authority as may enable him to conclude a satisfactory arrangement with the bondholders.

“ His Lordship adds : *‘ It is plain that so much of the public revenue of the States of Columbia, as is equal to the interest of their debt to their creditors, does not, in fact, belong to those States, but has been virtually alienated by them, by the contract under which the loan was raised ; therefore those States are defrauding the British creditors by applying to the public service of the Columbian States, sums which, in fact, belong to the British creditor. ’*

“ *The interest due to British creditors, should be*

deducted from the gross revenues of the states, and the residue only is the real revenue those States have any right to apply to their own uses.

“ If that revenue is not sufficient for the service of the State, the State ought to levy on its own people a larger contribution, but it has no right whatever, to make up a deficiency so arising by misapplying to such a purpose the interest which justly and legally belongs to the British creditor.

“ His Lordship goes on to inform me that he has addressed a note to the above effect to Mr. Fortique the Venezuelan Minister at the Court of London, and, therefore, he instructs me to repeat to the Venezuelan Minister for Foreign Affairs, the hope of her Majesty’s Government that the Government of Venezuela will not by longer perseverance in the injustice which has hitherto been committed against the British bondholders, bring on a state of things which will compel her Majesty’s Government to interfere in a more active manner to obtain redress for her Majesty’s subjects.

“ I deem it my duty, therefore, in consequence of the very unexpected arrival of the mail from England, again to address you on the subject, notwithstanding that there has not been time for me to receive an official answer to my despatch to you, inclosing my representation to the President of the Republic by the Bondholder’s agents here on the actual state of their affairs with Venezuela. I beg leave most strenuously to recommend that such

instructions may be sent to Mr. Fortique, as will enable him to meet fully, and therefore satisfactorily, the propositions made on the part of the chairman of the committee of Bondholders, and that they be transmitted by the returning packet to England.

“I have the honour to remain, &c. &c.

(Signed.) ROBERT KERR PORTER.”

That of Mr. Pitt Adams to New Grenada is to a similar effect.

“The undersigned, acting in conformity with instructions from his Government, reclaims from that of New Grenada that it shall continue scrupulously to collect, and faithfully present, without touching them, all the funds destined by law, for the payment of the interest on the foreign debt, which funds are undoubtedly the legal property of Her Majesty's subjects. He considers the time is now arrived, when it is necessary for him to declare, that the Republic of New Grenada, and all such individuals living within it, who from whatever combination of circumstances may be entrusted with authority, shall be responsible to the Government of Her Majesty for the legal application of all sums appropriated by the laws of the country to the payment of the British creditor.

(Signed) “WILLIAM PITT ADAMS.”

The same Noble Viscount also made an offer to the Portuguese Committee to write to Portugal in the same urgent manner, in which he had to the

South American States. Whether anything intervened to prevent his Lordship doing so, is unknown to the Committee. His Lordship never intimated to it any change of intention. Whether, however, he wrote or not, the offer made and accepted, was, as fully, an admission of the views and intentions of Lord Melbourne's cabinet of reclaiming the debts due to British subjects, from Portugal, as if we had a despatch similar to the above, to place before the reader.

Lord Melbourne's cabinet, then, took the same view of the law as Mr. Burge. That cabinet, by these notes, pledged itself, unanswerably, to support the claim of the British creditor by reprisals, if necessary. If it did not, there is no meaning in language, nor any use in it, as has been remarked, except to conceal one's intentions. With regard then to the above States, the question has been advanced to the very verge of formal demand. There is, indeed, no intervening step between the above notes, and formal demand. Whatever may be said of conversation, a Minister is bound by his official and written declarations. Further remonstrance, then, is out of place, and should be out of the question, as out of place. In fact, they are formal demands, except that no day is fixed by them, after which this Government would proceed itself to do its subjects justice, if not previously done them, voluntarily, by the States of Columbia.

Will, then, Sir Robert Peel's cabinet take up the

question at the point to which Lord Melbourne's brought and left it, and proceed by formal demand? If not, what apology will it offer for its refusal?

As I prefer stating and meeting possible objections openly, instead of writing at them indirectly, I will suppose that Government may be disinclined to coerce small States, for fear it should, one day, be obliged by such a precedent, to proceed against the stronger.

But this would deny and destroy the right altogether: it would also destroy any right of the subject; it would destroy every branch of commerce; it would be fatal to every right of whatever kind; it would be the death-blow of international society, and therefore is absurd.

It is quite clear that it ought not, and it is matter of fact, that it is not adopted as the usual principle of action; and, therefore, if adopted against Foreign Loans, that it is so adopted as a pretext. But all objections of this class are inadmissible, because it is contradictory, absurd and impossible to acknowledge and establish a practical right, a branch of trade, in fact, with one hand (and this has been shewn to have been so allowed and established) and at the same time, with the other, to establish such an objection to it, as would neutralize and destroy it altogether. Were it valid, what would become of second-rate States, if not at liberty to proceed against third-rate States, because, in the course of events, they might have the very same, or an equal cause, against first-rate States? What would become

of all but the one strongest? International intercourse upon moral and legal bases would cease, and be superseded by one of fraud or force. The above is a position totally subversive of all law, and utterly contradicted by such passages as have already been adduced: as, for instance, this—that the nearer a State approaches to an equality with your own, the more bound is your own, by a sound and necessary policy, to proceed against it: and also by this, that nothing but necessity or the strongest reasons founded on the public safety should prevent its doing so. These extracts declare that a State is bound to defend its subjects whenever it can, and to the utmost limit of its power, and therefore against injuries from weaker States. It cannot defend him beyond the limit of its power, except at a risk which it is bound not to encounter; and, therefore, it must be within the limit of its power, or against weaker States. This objection too, is negatived by Mr. Burge's declaration that this State ought to proceed against Portugal. But, to come to practice. Is not Buenos Ayres a weak State; and Naples a weak State; and Portugal a weak State? And has not Government, and very recently, proceeded against each of these; against Buenos Ayres in the disputed question of the Falkland Isles;* against Naples for the

* Does Buenos Ayres retain the interest on the English debt by way of reprisals for the seizure of the islands? The present minister of that country here is known to have declared that, if this Government would buy the islands, the proceeds should go to pay the arrears. This may intimate some connexion in the mind of his

violation of a commercial treaty ; and against Portugal in the matter of the commissariat dues ; and for the withheld pay and pension of the Duke of Wellington and Viscount Beresford ?

And have not other countries done the same ? Did not France, but the other day, blockade the whole of Mexico, for very slight injuries done her subjects, and also Buenos Ayres ? And were not these blockades allowed, although most injurious to British, and North American, and commerce generally ? And did not France but a few years back, take the Portuguese men-of-war out of the Tagus, by way of reprisals, and transfer them to her own ports ? And did not North America, since the peace compel Portugal, as well as France, to pay a debt ? And what country ever got any claim out of Portugal except by demand ? Look at the question about our Slave Trade treaty with her ; or that of Spain about the Douro navigation.

But, in the late case of the Neapolitan Commercial Treaty, if France and Austria, states especially interested in the Mediterranean, had not respected those axioms of the laws of Nations which forbid a Nation obstructing just reprisals by herself or others, they might have made a pretext of their respective interests, and of a fear of British aggrandisement ; (and which might have been participated in by North America on account of our seizure of

Excellency between the debt and the islands, and if the case, this country, according to Vattel, B. 2, c. 18, § 344, is bound to indemnify the parties who may suffer by such a mode of reprisals.

the Falkland Isles;) and upon this basis, a resistance raised to our reprisals, which might have cost millions of money and thousands of lives. A pretext also might have been found to obstruct our threatened reprisals against Portugal for the debts above referred to. It might have been represented to Europe that we wanted Madeira and the Azores as in the former case Sicily. The risks, however, whatever they were, or are now pretended to be, when the Bondholder calls for redress, were run and with safety to the country, and advantage to the State and individuals.* The acknowledged rights of nations, and the above plain axioms of International Law, are so thoroughly known and admitted, that as they prevented any war upon pretexts then, so would they now, in the case of just debts due to British subjects. The Bondholder does not ask his Government to alarm Europe by putting International Law in force, to its fullest extent, against Spain and Portugal, and seizing the Balearic Isles and Cuba; or Madeira and the Azores: all that he asks, is, that a formal declaration be made to these States that the debts against them are good, and if not paid within a

* The bondholders most decidedly exclaim against being made a kind of propitiatory sacrifice or bonus, in order to keep foreign states in good humour, and induce them to sign treaties. A clear wrong done to any particular subject must not be put aside for the sake of any contingent and prospective general advantages. The wrongs suffered by the Duke of Wellington and Viscount Beresford and by the State, were not put aside and overlooked on account of commercial and slave trade treaties which were then negotiating.

given time, will be enforced by a blockade of their ports, and a capture of their shipping.

The principle then of this objection, is not that acted upon by this country and others. We do interfere with weak States, if those States give us occasion. Then why make the case of the bondholder an exception? Is his right to protection any worse based than that of others? Have not Foreign Loans been shewn to be an original and inalienable right of the subject, equally with any other branch of trade, until prohibited by competent authority? Has it not been shewn that a Minister suggested to Parliament, the propriety of giving the Crown a power of licensing them, and that Parliament would not adopt the suggestion, but left them, as heretofore, in the hands and to the management of individuals? And are not Foreign Loans so contracted, contracted in the way in which it has been constitutionally provided that they should be? If treaties of commerce and alliance have been given to the Crown, Foreign Loans have been, as expressly, left in the hands of private citizens. There is, therefore, no inequality between them on account of the difference in the parties authorized to make them. Government and the State appear more prominently and palpably in the one; but the State and its authority are no less really and intrinsically in the other.

The Government of the day made the treaty in question with Naples; the Government and Parliament of the day also allowed the Duke of Wel-

lington and Viscount Beresford to take rank and service, pay and pension of Portugal; the Government and Parliament of the day also decided, that the privilege of making Foreign Loans should be continued to private individuals, an arrangement which, to this hour is unrepealed, and under which certain subjects of this country, have made Loans to Portugal and other States. Now the authority of one Ministry and Parliament is equal to that of another: that of 1730, sustained by the tacit acquiescence of all succeeding ones, up to this present time is surely equal to that of any particular one, however recent. But how different has been the action of the State in the several cases.

The infraction of the Neapolitan Treaty, was quickly avenged by reprisals. The pay and pension of the above Noble and Gallant individuals, though tardily, have, at last, been exacted, and to the uttermost farthing. *The Bondholder alone remains without redress, an injustice which he most strongly and distinctly protests against, inasmuch as there is no difference in the sanction and authority under which himself, and the Noble and Gallant Lords, became creditors of Portugal; or that, either, under the faith of which, the merchant made his venture to Naples.*

But if the Bondholder's claim upon Government for assistance is sound, on the ground of the non-fulfilment of a contract by Portugal, to pay a stipulated interest on money lent,* how much stronger

* The non-payment of dividends is exactly parallel to the retention of a cargo of goods which had been ordered and delivered to a

does it become, when the Portuguese Government, beyond this, requires a surrender of the Bonds, and of £40. per cent stock, on the part of the 3 per cent. portion of her Debt, and *proceeds to exact it, by withholding three years overdue Dividends, until that sacrifice is made.* But these Bonds were not to be demanded except when Portugal should be prepared to pay them off at par of £100. per cent. Instead, however, of fulfilling this engagement, she offers her 3 per cent. Creditor, but £60. per cent. in paper, (by Art. 3, £69. 15s. of which £9. 15s. is for arrears of interest), the market value of which is little more than £20.; or, the alternative of surrendering his three years overdue Dividends.

Strictly speaking, there is no provision whatever under the Decree for the Dividends of dissentients, whether past or *accruing*. In practice, however, owing to Lord Palmerston's interposition, the fine imposed on those who will not surrender their Capital, is confined to the three years overdue Dividends.

The process under the Decree is this. By article 3, a holder of £1000. 3 per cents. for instance, is offered in exchange, £600. new 5 per cent. stock,

foreign government, *and the price too*, for the capital of the loan not being redeemable except at the option of the borrower, need not be repaid till the day of judgment. The interest therefore being the only return, is the price. In the case of the retention of a cargo of goods, and the price too, this country would immediately interfere. Why not then when the cargo is bullion? Is not money as much a product of our industry as any manufactured article? Is not money, property, as much as any manufactured article? Whence then the difference in the protection rendered?

whereby an equivalent interest is allowed, but £400. stock taken away. If he will not consent to this, his three years overdue Dividends are withheld. But if his necessities compel him, for the sake of a little additional and present interest, to comply, an amount of New Stock, bearing interest, equal to his three years arrears is immediately given to him.

Thus, whether Her Majesty's subjects assent, or dissent, they are robbed: in the one case of £40. per cent. of their Capital: in the other, of their overdue Dividends.

I say, robbed, for no one would *voluntarily* surrender £40. per cent. of his Capital, if he could obtain his overdue Dividends, either in money, or Stock bearing interest, *without* it: and no one either, would *voluntarily* surrender his overdue Dividends, except to avoid a worse loss in Stock. It is therefore a measure of robbery and nothing else, for the Portuguese Government professes its *ability and anxiety to capitalize or fund all the overdue dividends, but its determination not to do so, without the previous surrender of the creditor's stock, and bonds.* And on this it has acted and is acting. But there is also another view of the position of the holder of 3 per cents. and which it is necessary to take.

An original purchaser for investment of £1000. 3 per cents. at £72. per cent., the price at which it came out, and who may now be compelled by his necessities to convert it into £600. new 5 per cents. can *never* recover his original outlay, even should the new stock rise above par, *because* the Portu-

guese Government has, in that case, protected itself by Article 8, wherein it is provided that it may then pay them off by lot and *at par*.

£1000. 3 per cents. at £72. per cent. cost £720.

Deduct £600. new 5 per cents. at Par, or £600.

Difference and loss £120.

The Portuguese Government therefore, in this view of the case, *confiscates* £120. *that have been paid in money, for each, and every* £1000. *stock, of its 3 per cent. Bonds, bought at that price.*

Now we will say that the Government cares nothing for the loss which individuals may suffer by Foreign Loans, but is it at liberty to allow Portugal thus to appropriate to herself so much of *the capital of the Empire?*

Vattel says, B. 2, c. 7, § 81 :—"Even the property of the individuals is, in the aggregate, to be considered as the property of the nation, with respect to other States. It, in some sort, really belongs to her from the right she has over the property of her citizens, because it constitutes a part of the sum total of her wealth, and augments her power. She is interested in that property by her obligation to protect all her members."

The modest amount of the required surrender of Stock, which includes this in cash just noticed, deserves remark; 40*l.* per cent. Stock on 6,000,000*l.* of 3 per cents. (made up of 4,000,000*l.* of the 3 per cent. loan, and of 2,000,000*l.* 6 per cents. converted into 3 per cents.) being no less a

sum than 2,400,000*l.* Stock due, when paid off, in money; and to effect which, a sum of 60,000*l.* per ann. was by the contract to be applied as a Sinking Fund.

The alternative offered by the surrender of three years overdue dividends on the above 6,000,000*l.* 3 per cents. and on 5,000,000*l.* 5 per cents, amounts to 1,290,000*l.* over-due, and in money.

“*Utrum horum, mavis, accipe,*”

says Portugal to Great Britain and her subjects, but the one, or the other, I will have !

But, in order to make the character of this decree a little more plain, I will shew that the robbery is a needless one, and will give Portugal no relief whatever; and therefore besides being a robbery, is a most wanton and indefensible one.

The interest on her debt is all that is by contract due at present; the repayment of the capital not being limited to any particular year, is not exigible. The interest on her debt therefore is her difficulty; but on this point it is evident that this decree gives her no relief whatever, the interest on 600*l.* new 5 per cents., and that on 1000*l.* 3 per cents. being equal, or 30*l.* per ann.

Portugal pays only half dividends, but it is clear that she might as well pay that half dividend, or 15*l.* on 1000*l.* 3 per cents. as the same sum on 600*l.* new 5 per cents. It would not cost her one annual penny more to capitalize the arrears of interest as she is doing, and allow her creditors, according to their right and contract, to keep their

old bonds, than it does to compel them, one and all, to surrender up their old bonds; and the 3 per cents. beyond this, to sacrifice 40*l.* per cent. of their capital, *under the penalty of having their 3 years over-due dividends withheld.*

The attempt, therefore, to compel her creditors, under penalty, to surrender their old bonds and capital stock, is a needless, useless, and therefore most wanton and gratuitous robbery, neither covered by the plea of an inevitable necessity, nor excused on the ground of affording a present relief; and is wholly without any apparent object, except it be the covert one of working down the debt by alternate blows at principal and interest, to the vanishing point. And that this is the ultimate aim of the decree seems to have been intimated most undisguisedly so early as the very next year; her Finance Committee of 1841 having been reported by the public papers to have advised the Cortes as follows:—"As to the Foreign Debt the Committee refer to it as having been *settled* by the measure passed last year (Nov. 2, 1840), and have nothing further to say than to express a hope that *future advantages* may be obtained by converting it into a *home stock*; *fixing the interest permanently*; and endowing the board of public credit with additional funds to pay the same." "Fixing the interest permanently;" why it had been fixed permanently by the original contract, and had been maintained at an equivalent rate even by the illegal and unjust decree of 1840! A reduction of interest therefore

is contemplated under the catching phraseology of fixing it permanently. It would appear then that the interest was merely maintained at an equivalent rate by this decree, in order to induce parties to part with their capital, and, that object being effected, that the blow next in order was one against their interest.

And to show that we have not adopted an unwarranted interpretation of Portuguese intentions, the last advices from Lisbon inform us of the scheme of a Baron Lagos for making *the foreign a home debt, and reducing the interest*; and which has been favourably received by the Portuguese Government. Indeed, the reduction of the capital is of no use, as has been shewn, unless followed by a reduction of interest, and to this end probably it was that the 3 per cents. were to suffer the previous exaltation into 5 per cents., that the reduction of interest, when attempted, might be to the whole numbers of 4, 3, 2, 1, per cent., instead of the fractional ones of 2*l.* 8*s.*, or 1*l.* 16*s.*, &c., which would not look well on paper.

Not to fatigue the reader, I shall avoid dwelling on, and only enumerate some other equally unjust provisions of the decree: as for instance the relative injustice of demanding the above heavy sacrifice of stock from the 3 per cents., while it asks none from the 5 per cents., but allows them to exchange their old bonds for new, even-handed. Why is this, when it is considered that the 3 per cents. at the price of 72*l.* per cent., gave 20*l.* per cent.

more for their Bonds than the 5 per cents. ever did? Or, again, I will ask his attention to that other instance of relative injustice which was committed in paying the home creditor in full, and the foreign nothing; and which is persisted in to the present time, by paying the latter but 50*l.* per cent., and the former 90*l.* per cent. If sacrifices were necessary, why, *at the least*, were they not demanded equally of all?

But if the Portuguese Government favours the 5 per cents. relatively to the 3 per cents. in not robbing them of their stock, it nevertheless takes away their overdue dividends, unless they will give up their original bonds.

Let the reader look again at article 8, by which the Finance Minister is allowed to go into the market, without any restriction *as to time, or the concurrent payment of a full interest*, and buy up the bonds at the nominal prices to which *this very default of a full interest has reduced them*, instead of either increasing the fractional dividend now paid on them, or else paying them off by lot and at par.*

Or, at Articles 6 and 7, which the Committee regard as a covert attempt, under the specious appearance of a new and additional guarantee, to throw the creditors ultimately on the Lisbon and

* With an honourable State this article might be of no consequence, because such a State would never buy up its bonds, except when concurrently paying a full interest, but in the case of Portugal it is different, inasmuch as she is confiscating either our capital stock, or else our dividends, and therefore may take advantage of such an open article.

Oporto custom-houses for payment, instead of London, as by contract ; whereby, should the exchanges from any cause be against us—as, for instance, from the adoption of a paper currency, and fall below 55*d.* the milrea, what with that circumstance, and the allowance to the merchant discounting them for the holder, the fractional dividend would be again ruinously reduced.

And the inducement offered to lead us to submit to all this, *is the deferred payment of a full interest for twelve long years, with all their intervening risks and chances !*

What want the creditors with these nominal and so called additional guarantees ? Are not all the revenues of Portugal theirs by contract, until the interest is paid ? And if Portugal can give us an especial lien on the Lisbou and Oporto custom-houses, as a lure to induce us to accept the decree, why does not the Government compel her practically to assign, “scrupulously to collect, and faithfully present without touching them,” the duties which she offers us for her own purposes, and without the sacrifice of either bonds, stock, or dividends, which it is dishonest in her to require, and which it is treason towards the subject and the State in the British Government to permit ?

The points arising out of this decree may be divided into three heads.

The first regards the arbitrary and illegal nature of the decree itself, and also the compulsory sur-
r it requires, either of our capital, stock, and

bonds, or else of our overdue dividends; and it may be one of these days, of our accruing dividends,* unless we submit to it; for no provision whatever is made for dissentients by its articles.

The second, regards the power and obligation of Portugal to pay more than she at present does.

The third, the fact of a moiety nearly of the holders having accepted it.

Now, with respect to the first head of inquiry there ought to be no difference of opinion in the mind of any man in the country, *that Portugal ought not to be allowed to give British subjects the alternative only of surrendering to her cupidity their capital, or else their dividends.*

It cannot be pretended, that this country could not say to Portugal, and that, with the assent of all other countries, "*you shall expunge from your decree, in the first place, every provision that is dishonest, and then we will consider your ability and obligation to fulfil more perfectly the conditions of your contract. The questions are quite distinct. Because insolvent, you need not be dishonest, and moreover needlessly and uselessly so.*" Between man and man, to effect a compulsory surrender of property through the other's vital necessities, would be accounted robbery, and of the most degrading kind; and in this light must this attempt of Portugal appear to the

* In support of this observation I beg to remark, additionally to the fact that there is no provision made by the decree for dissentients, that the Agency always advertises the payment of the half-dividend on the Converted Stock separately, and some time previously to that on the Old Bonds.

members of the British legislature, as they are men. But I have presented this transaction to them in another light. I have presented it to them as a tax compulsorily levied on the capital of the empire, as it truly is, as well as one on British subjects ; and, therefore, as an usurpation of their exclusive functions and powers by a foreign legislature. I moreover present it to the Executive and to Parliament, as an insult to the Crown, and one affecting its independent sovereignty, that an agency should be sent into the very capital of the empire for the express purpose of robbing, defrauding, and oppressing its subjects.

I contend, therefore, that this agency ought to be driven out of the country, and the repeal, rather than the expurgation of the decree, demanded. I contend that it is alike due to the Crown, Parliament, and the subject.*

The second head regards the power and obligation of Portugal to pay more than she is doing at the present moment.

It is well known to gentlemen acquainted with Portugal and Spain, that there is a great deal of wealth in those countries, *but a decided indisposition or rather determination not to part with it, in discharge of the interest of the public debt due to*

* The decree of November 2, 1840, even were it an honest equivalent for the original contract, still as having been passed without any negotiation with the creditors, was an arbitrary and illegal act. On this account alone, without looking at the other circumstances in aggravation, Parliament is bound to *invite* Portugal to

foreigners. This wealth may be in fewer hands, and not so diffused as in England, but this makes no difference; contributions should be in proportion to means, and those means made available towards the national engagements. A nation in which this indisposition to pay its foreign debt exists, will always plead inability, and rather than let the money go out of the country, will allow corruption of one kind or other to eat it up within. Out of jealousy and hatred of the foreigner, it will rather allow its resources to lie dormant than call them out, and even talk of revolution if any direct contributions be proposed in order to pay him.

With these feelings, and this want of principle, are Spain, Portugal, and the South American States overrun.

But is the British Government justified in sacrificing its subject to feelings and principles such as these?

If a foreign State evidently has either the already acquired wealth; or internal resources which only need development; or the means and opportunities of financial prosperity, not merely within it, but at hand, and will not call them into activity, is the British subject, whose money was obtained from him on the faith and by the ostentatious display and representation of these resources, to go without his remedy, because the Government of such state will not exert itself to fulfil its obligations, and redeem its promises? Is it not rather the part of the British Government to quicken such Government to

a sense of its duty by demand of payment ; or if it be itself alive to its obligations, but afraid of its own people, to tell that people by this same course, that the debt must be paid, and which would relieve their Government from the odium of the measures rendered necessary by the demand? A formal demand against whatever party in the state may be its Government, would render threatened revolutions useless. The thirst for power would diminish with the opportunities of peculation. Corruption, having nothing left to feed on, would gladly resign the care of the state to honest hands. A formal demand is the *only test* of the ability of such nations to pay their debts ; the only way to make them forego their absurd prejudices, and selfishness, and injustice, and adopt the means necessary to the restoration of their credit. Remonstrance only, gives them the opportunity, and of which they abundantly avail themselves, through studied delays and deferred promises, and allegations of insolvency, and the distress and necessities of their starving creditors, to expunge portion after portion of their debt.

Look at private life. A private family feels *morally bound to carry its economy to the utmost possible extent, and apply it throughout, from the highest to the lowest within its circle ; and also to make the most of its estate*, in order to pay its debts. But Portugal is not influenced by such considerations, nor Spain either. All accounts concur in the wretched management, from first to last, of their

means and resources. Can it be said of Portugal that she could pay no more, when, instead of endeavouring honestly and anxiously to make such commercial treaties with us and other countries, upon fair terms of reciprocity, as would materially assist her treasury, and general prosperity, she has avoided doing so by every evasion and delay in her power, because she could not obtain a sufficiently one-sided one? Is she, under these circumstances, to pay no more than she pleases to offer, when, at the same time, every British subject who may be a creditor of Portugal, and unpaid by her, is obliged, nevertheless, to contribute his quota to *pay in full any Portuguese subject who may have money in the English Funds?*

Is not her decree also in direct and arbitrary contravention of her original contract, and, besides this, full of positive and relative injustice? Now, if dishonest in one thing, why not in another; why not in her alleged insolvency? Why may not that be pretended and unreal?

May she not see her way through her difficulties clearly enough, but being evidently anxious, as per decree, to shake off her debt, be unwilling to adopt the means of returning to a solvent state, until she has effected, as far as she can, an object so near her heart? Why then, in this view of the case, are we to allow, without deep consideration, that Portugal can pay no more?

Or why are we asked to grant that proposition, when she has *refused* to give that true sign of real

retrenchment, by making it begin at the palace? Was not the creditor entitled to this act of just consideration on the part of the Crown? Would not its ministers have exercised a sounder discretion in recommending to it a sacrifice of income, rather than laying before it the decree of Nov. 2, 1840, for its signature, when it is considered that *this decree which confiscates British property, has the very same sign manual to it as the contract under which the money was borrowed?* Would they not have formed a truer estimate of what honours and dishonours a crown, if they had advised it to assist in paying the debts of the State, rather than do that which would dishonour a private individual? Would they not also have better satisfied the foreign creditors that Portugal had a sincere desire to pay what she could: whereas, now, they feel assured that she has no desire to do what she can, and ought?

That Portugal, also, paid her home creditors in full, while she was paying the British nothing; and that she is now paying the former 90*l.* per cent, and the latter but 50*l.* per cent, cannot either, it is presumed, be adduced as a proof that she could not have paid the British more, by paying the Portuguese less.

Suppose the home creditor were to talk of revolution if reduced to a level with the British? What then? A blockade of the Portuguese ports and islands, by depriving the Custom Houses of receipts, and the home creditor of his income altogether, would render him grateful, if, for the

future, put upon a level with the British? I say put upon a level, for the result of an interference once begun, might be the adoption and enforcement of that just principle put forward by Viscount Melbourne's Cabinet, through Viscount Palmerston, to the states of Columbia, and therefore to all other States, and thence to this of Portugal, viz., that "*the interest due to British creditors being deducted from the gross revenues of the State, the residue only is the real revenue which that State has any right to apply to its own uses,*" and therefore to that of the home creditor. This principle I think of so much consequence, that I make no apology for reprinting a part of Viscount Palmerston's note here.

"It is plain that so much of the public revenue of the States of Columbia, as is equal to the interest of their debt to their creditors, does not, in fact, belong to those States, but has been virtually alienated by them by the contract under which the loan was raised; and therefore, those States are defrauding British creditors by applying to the public service of the States of Columbia sums which, in fact, belong to the British creditor."

"The interest due to British creditors should be deducted from the gross revenues of the States, and the residue only is the real revenue which those States have any right to apply to their own uses."

"If that revenue is not sufficient for the service of the State, the State ought to levy on its own people a larger contribution, but it has no right whatever to make up a deficiency so arising, by

misapplying to such a purpose the interest which justly and legally belongs to the British creditors."

And is not this the true principle? Is an individual in private life excused paying the interest on a mortgage, on the plea that he has *first to attend to his own family and household, and, that done, the mortgagee may have the residue, if any?* On the contrary, is he not obliged to pay the mortgagee and live on the remainder? Has not the out of doors debt the preference over indoor demands? And does not the law enforce the mortgagee's right, without having the slightest reference to the distress caused in a borrower's family? If distress is to visit either family, should it be the lender's, and not the borrower's? Why then does not this State enforce the lender's right against Portugal, as by constitutional law bound, and by international law allowed to do? Why does it not tell Portugal to pay the debt, and if the residue of her revenues are insufficient for home purposes, to raise larger contributions on her own people? Is it either just or reasonable that a State, a whole State, a collective people, should be suffered, against all law, equity, and honour, to distress a certain number of foreign families? Why are British families to suffer distress for the want of the money, *which is theirs*, rather than the Portuguese nation, *whose it is not?*

Does this State prefer and intend making compensation, and paying the interest on the debt itself, rather than distress the Portuguese? Or does it

intend, from a wish to do *indirectly*, what it has either not cared or neglected to do *by statute openly and directly*, viz. crush Foreign Loans, by abandoning the property invested in them—does it intend, I say, to break through all obligations to the right and left, and neither make the Portuguese pay, nor pay itself? Let it bear in mind that it has interfered for itself and the Duke of Wellington, and Viscount Beresford, and others; and on account of trade against Naples; and then if it can for shame, resort to every subterfuge against the bondholder:—a fear of war; as if war for the above parties would not have been attended with the same evils as for the bondholder; or, as if war could take place at all between Great Britain and Portugal; or, as if a demand on the part of this country would not be followed by Portugal taking pen in hand, and rewriting her decree, or erasing from it all its dishonesty, and inserting some more reasonable composition than she at present is bent on forcing on us, and which the creditor might accept.

The last point regards the fact of the acceptance of the decree by a moiety nearly of the creditors.

The reason of this will be shewn by the following letter, one of a thousand received by the *Morning Herald* and *Post*, papers which have, with so much good and honest feeling towards the bondholders, opened their columns in an especial manner, to their communications. It was put into the hands of the city editor of the *Morning Herald* for publication.

“SIR—Being in great pecuniary difficulties, and in doubt how to proceed with regard to my little Portuguese stock, may I ask the favour of your opinion on the subject. You have great experience thereon, and have kindly granted to the public the benefit of the same. A few years ago I held the rank of Lieutenant-Colonel in Her Majesty’s service; but as age was fast creeping upon me, and having a family (a son and two daughters) to provide for, I resolved on selling my commission. I did so, and the proceeds, added to my own private property, produced me a capital of 9,500*l.* In one fatal hour, and under the advice of my friends, I invested the whole in Portuguese 5 per cents. at 99½. When the Government first and to my surprise and great distress, ceased to pay the dividends, I declined selling out any of my stock at the reduced prices (between 40 and 50 per cent.) to meet my pecuniary engagements, but raised money on my bill at 5 per cent., pledging my stock as security. My bills were so frequently renewed that I found myself compelled in 1839 to dispose of 4000*l.* stock, at 32*l.* per cent., to pay them, and meet my current expenses, as well as an unfortunate liability, for which I had made myself responsible. A few months afterwards my son was gazetted to a commission in the army by purchase. Although the Portuguese stock was at 28*l.* per cent., I was obliged to sell out 2,500*l.* stock, which procured me only 700*l.* Finding the stock still decreasing in value, and distressed beyond measure for the fate of my

daughters, we resolved on establishing a boarding school, and this led me by October 1840, to sell out 2,000*l.* stock more. Sir, we commenced our undertaking with apparent prosperity, whilst my dear but afflicted daughters displayed the calmest resignation to the will of Providence. In three short months my eldest daughter was no more; she caught a cold, and died of a brain fever. My turn came next, a rheumatic fever made me, now 68 years of age, bed-ridden, and wholly helpless for five months afterwards. The charge of the school now falling on my only daughter, scarcely 20 years of age, her delicate frame and sensitive mind, under our most heavy afflictions (but not until after the most severe struggles), yielded to the labours and anxieties which oppressed her. Sir, my poor, dear, dear daughter is now out of her mind. She is—but I have not nerve to continue further on these disclosures.

“You are now in possession of the wretchedness and helplessness of our position. The favour I have to ask of you is this. I have still 1500*l.* stock, of 5 per cents. remaining, which at the present price will produce 510*l.* There is a mortgage of 400*l.* on them, so that 110*l.* only would be coming to me. Would you recommend me to continue paying 7 per cent. on the mortgage, a short time longer, under the hope that Lord Palmerston’s protection will lead to the stock improving in value, or at once to make a sacrifice, and save what I can, lest the stock might go down again to

28*l.* per cent? If I can but amass about 200*l.* I am not without hopes of securing to my dearest daughter, and self, some future provision. My prayers will ever attend you, Sir, if you will kindly advise me how to act, for my money is gone, and my friends have gone with it.

“ I have the honour to be, Sir, &c.

A distressed, and broken hearted,

OLD SOLDIER.”

“ Camden Town, May 6, 1841.”

The dividends being unpaid, such parties as the above were compelled to sacrifice their bonds, which fell into the hands of speculators, at merely nominal prices, and who could afford to accept the terms of the Portuguese Government. To this class may be added another, no less numerous, that which despaired of *justice abroad, or redress at home*, and therefore made the best of what it considered to be a bad matter, and capitalized its overdue dividends, for the sake of the interest they would bear, although at the sacrifice of the capital stock. This will sufficiently account for the acceptance of the decree by a moiety nearly of the holders, and the only wonder is, that, under these circumstances, more have not given way.

Let us suppose then an Apologist for the Portuguese Government to say, “ Portugal has made an effort to pay her debts, and which has been accepted by a moiety nearly of the holders, and therefore there is no reasonable ground for this Government’s interference against that country.”

Can any ground of refusal be more cruel and disingenuous than this! Certain parties having accepted a certain act out of *necessity*, and others out of *despair*, they are also further to submit to have that acceptance turned against them, as an admission on their part, of the justice and fairness of the act in question, and as if given of *free will*!

I have heard of confessions extorted by the Rack, and of those confessions having been turned against the victim : in this I see it!

At the very least, such an argument can only be used by parties who seek a pretext against the Bondholder ; or else from their not having read so as to understand the decree ; and also, perhaps, from having had their mind preoccupied and poisoned by some Portuguese informant, “squat at their ear.”

This Portuguese decree was addressed to speculators, and hoped to be carried through by means of speculators, with the aid of those (*voluntary of course*) who accepted it from absolute necessity and despair.

But a nation with honourable intentions towards its creditors, would rather have addressed one to its true creditor, *the original purchasers for investment at high prices* ; and would, if any clause in it had been pointed out as hardly reconcilable with justice, have eagerly and instantly amended it. Not so, however, our old and good ally to whom George 2nd, would readily allow his subjects to

lend their money ; she, although the injustice of her conduct has been pointed out to her from the beginning by the Press, and by the Committee, and laid before her Finance Ministers and the Crown itself, by our Minister at Lisbon, who has been instructed to press the prayer of our memorials, nevertheless maintains her decree with a most remarkable, and therefore the more dishonourable, pertinacity.

Portugal cares not though a worn out old officer, through a misplaced faith in her honour, ends his days in an almshouse, and his daughter in a county asylum ; nor though others are driven to our antipodes, to repair there, as they can, in the most distant colonies of the empire, their fortunes shipwrecked on her base promises. She cares not, although she must perforce know what all the world knows, that the loss of a man's property, reacts on all his interests, and even on his life : stops the education of children and their advancement in the world ; compels him to abandon insurances for their future provision ; puts the severest strain on his remaining means ; and shortens his days too, not only indirectly, as shewn in the above harrowing letter, but impels him even to lift his hand against himself. Such evils as these, she must have known that she was inflicting on British subjects, because they are a direct consequence of a default of payment ; but it does not seem to have hastened her adoption of such measures as would have replenished her treasury, and enabled her

to relieve a mass of misery of her own creating, and which she was bound in every way, morally and legally, to remove. On the contrary, being past feeling, she has turned away from the path of honour and duty, and chosen that of confiscation.

There being nothing then to expect from Portugal but a declension from bad to worse, and the present Ministry having as yet made no sign of adopting the principles put forward by Lord Melbourne's Cabinet, while Portugal and her advocates are actively pressing their disgraceful cause against parties already assailed by necessity and despair, the bondholder's only refuge is in Parliament. That too, is his constitutional course, and of Parliament he should ask redress or compensation. Having made a lawful use of his property by employing it in a branch of trade deliberately left open to the subject by a British Parliament after a debate on the same, and which has never been prohibited by any subsequent one, and having suffered therein not only non-payment of what was due to him, but also actual confiscation, and it being evidently in the power of this country to obtain for him redress for these injuries, as it has lately shewn, by obtaining satisfaction and reparation for others of its subjects, as well as for itself, from the very state in question, the creditor of Portugal has a right to ask of Parliament either redress or compensation.

On the question of the Danish claims, Mr. Cress-

well, late M.P. for Liverpool, and now raised to the Bench, made a motion on June 11, 1841, in the House, to the effect, "That Her Majesty be graciously pleased to advance to such claimants the amount of their respective losses, as ascertained by the said Commissioners, and assuring Her Majesty that this House will make good the same." It was argued on the authority of Sir James Mackintosh, "that the parties who had goods or *debts* that were confiscated, were entitled to compensation on this principle, that if the subjects of this country were injured in a foreign state by seizure of their property, if the Government did not obtain redress, the Government was bound to make compensation." This motion was carried. Now, what difference is there between a ship entering a port under a treaty, and being seized and detained, and our money entering Lisbon under a treaty, and being seized and detained? Our money is seized and detained. Our over-due dividends ought to be in course of payment to us; but Portugal has put her hand on them and detains them, saying, No: I will not give them you unless you surrender up to me your Bonds, and 40*l.* per cent. of your capital stock besides! Is not this a seizure of our property, and are not we as much entitled to a favourable vote of the House of Commons, as the Danish claimants? The only question is, who will be our Mr. Cresswell; who will come forward for another ill-used class of his fellow-countrymen?

Look at the unequal treatment which the *Bond-*

holder has received as compared with the *Planter*, who had invested his capital in slaves!

To the planter, Parliament, when it abolished his traffic, which was a sin against God and man, thought it necessary to give *compensation*.

To the bondholder, whose branch of trade is not, like the investment in slaves, a sin, but equally honourable with any other mercantile transaction, and equally necessary to governments foreign or domestic, the powers of the state have neither accorded compensation or redress, but fairly abandoned it to all that chose to plunder it; and which, of course, was hoisting a signal to all nations void of honour and moral sense so to do!

It would seem also, itself, to be nothing loth to share in the spoil too. It has no compunctions at taxing property which it has not protected. It has subjected foreign bonds to the Income tax.

It certainly is not a little edifying to see two governments on one carcase; the nominal shepherd sharing with the wolf, and that too, *when the flock did not break out of the fold, but the shepherd never shut them in.*

Ordinarily such a shepherd would have to make good the sheep, instead of sharing in the spoils; and, by parity of reason, Government ought to make good the property, instead of flying with indecent haste on the poor remains of what it has allowed others, contrary to its duty, to make a prey of. These Foreign Loans might have been prevented by

former governments ; and should have been, if, at the time, held to be against the general interests ; or, if a determination was then taken not to protect them, *in order to legalize such a determination, according to Sir Robert Walpole's precedent, and which went beyond this, even to warning "the ignorant and unwary," of what they ought to have known.*

Sir Robert was anxious not only to prevent the emperor obtaining money, but also to save the subject from the danger and detriment he might unwittingly incur, by engaging in a loan that might be treasonable. "The passing of this Act," continued Sir Robert, "would be compassion and humanity towards ignorant, unwary men : it was for the prevention of fraudulent dealings, and concealed transactions."

And in the spirit of this legislation Lord Brougham coincides ; for that noble Lord moved last summer in the House of Lords, after a very eloquent speech, in consequence of the evidence that British subjects residing in countries where slavery exists, were *ignorant* of the fact that they were still amenable to the laws connected with the traffic in slaves ; moved, I say, that Her Majesty do issue a decree distinctly defining the law for the future guidance and protection of the British subjects alluded to. But how different is the spirit in which the creditors of foreign states have been met by modern legislators ; how contrasted theirs with old notions of duty ! These unfortunate creditors

had *no legal notice* given them of the withdrawal of protection from their property, even in a *lawful and honourable use of it*; but *have received legal notice, that though unprotected, it is to be taxed!*

Not content, however, with taxing the *Income*; *Legacy Duty* is also chargeable on *Spanish and Portuguese Stock*, according to the price of the day! This means that Government is determined to put down Foreign Loans by every *indirect means* in its power; to make them as little profitable as possible; as if half dividends, and thirds, and a mere interest on an interest, and no interest at all, which we suffer by its connivance, were not sufficient! But a measure more unfair, more plainly in contempt of inalienable rights and direct infringement of constitutional engagements, never emanated from a cabinet.

But, of course, I question its right to tax property which it will not protect. It is plainly inequitable, but I question its legal right. A power to tax property, is a power exchanged against protection, and which power lapses when protection can be, but is not, given. Rights are inalienable and revert, if that, against which they are exchanged, is not afforded. Allegiance and protection are reciprocal, as the Duke of Wellington himself declared in the House of Lords.

Vattel thus speaks upon such a point in B. 1, c. 17, § 202. "The State is obliged to defend and preserve all its members; and the prince owes the same assistance to his subjects. If, therefore, the

State, or the Prince, refuses or neglects to succour a body of people who are exposed to imminent danger, the latter, being thus abandoned, become perfectly free to provide for their own safety and preservation, in whatever manner they find most convenient, without paying the least regard to those who, by abandoning them, have been the first to fail in their duty."

I adduce this passage, of course, simply for the sake of showing that rights do revert, and therefore the illegality of taxing, where protection is not given. Parliament certainly has sanctioned the measure also; but although it has voted that Foreign Bonds shall be taxed, *it has not yet voted that they shall not be protected*, and therefore it is not pretended that the right of taxation has yet left the State and reverted to the individual.

The Bondholder's course then is plain. He must apply to Parliament for redress or compensation; one of which courses is the more especially due to him, as it has just decided to tax him. Parliament has never been applied to, and no doubt waits till it is. It may imagine the Bondholder to be satisfied with what the Foreign Office is doing for him, and that there is no need of its intervention in his favour. The sooner, therefore, that the Legislature is undeceived in this respect, the better.

I cannot close this pamphlet without noticing, however briefly and imperfectly, the case of Spain.

Spain merely pays an interest on an interest; a

3 per cent. or reduced interest, on a part only of the arrears of interest of a reduced debt: and nothing, absolutely nothing, upon the bonds themselves, and which are now, principal and interest, through her neglect of payment, counted by tens of millions!

Such being the condition of her Foreign creditor, what, in its practical working, is the character of her last decree? As in the case of Portugal, I must premise, that the arrears of interest were all that was due by Spain to her creditors. Being unable to pay them in money, she capitalized them in a 3 per cent. stock. Under these circumstances, it was plainly her duty, to give to this stock the highest value she could, in order to make this mode of payment as nearly equivalent as possible to the cash payment which was due. This she had an opportunity of doing, by making it the only receivable paper in purchase of the national properties. But, instead of this, she made the bonds themselves, on which the arrears of interest had accrued, also receivable, and in an equal proportion.

This threw a double advantage into the hands of the native Spaniard, because the Englishman cannot buy, so as to manage advantageously, either for residence or investment, Spanish estate. It gave the Spaniard *par value* in land and houses, so far as the national properties go, and they are very extensive, *both for his original Bonds and his new Stock*, and left the Englishman the mere market value of his, which is, now, *about 23l. per cent. for the lat.*

ter, and 18l. per cent. for the former! If the Cabinet of Madrid had had honest intentions towards the foreigner, it would have made the New 3 per cent. Stock, as I said, the solely receivable paper, whereby, when the Spaniard had exhausted his, he would have been compelled to come to London and Paris for that existing there, and thereby given it a price. As it is, the price is merely nominal; the advantage being designedly and entirely the Spaniard's; the disadvantage, as completely, the Englishman's.

And this from Constitutional Spain, notwithstanding the assistance she has had from the English money-market since 1823, and the liberties she has taken with it! If Ferdinand, unjustly, and against the maxims of International law, withheld the dividends on the English loan, to which he was a contracting party, for eleven years; the Queen's Government has, in many respects, acted just as ill. The commencement of her reign was signalised, not by paying to British subjects any part of the eleven years overdue dividends, but by making them a deferred Stock; and one-third of the very capital also, Passive Stock; and its continuation has been remarkable for leaving it Passive still, although, by law, the last series should have been converted this year. The native, also, be it observed, when the British subject was called on to make the above sacrifice, was not allowed, himself, to make any to the exigencies of *his own State*, either in capital or interest! All, with genuine Spanish assurance, was

thrown upon the foreigner. It is believed also to have increased the Public debt by the clandestine issue of Stock in this and other foreign markets ; and which, if true, is an offence against this country, as well as against the holders of Spanish Stock individually. The account of the transaction is to be found in five reports to the Cortes, which are in the hands of the Spanish Committee. These, it is understood, shew the agents in the transaction, and the matter, without any reserve, in all its details. If, in 1834, when the Spanish Government consolidated the Cortes, with the New Loan, it created New Bonds sufficient to absorb the whole of the Old Cortes Bonds, and subsequently, threw secretly on foreign markets, such remainder of these New Bonds as had not been called for and exchanged against the Old Cortes Bonds,* it thereby increased its debt. No individual can be compelled to part with his original Bond, either by a Decree of the indebted Government, or by a Committee, or by a majority of the bondholders ; neither is his bond in any degree vitiated by such refusal on his part.

His bond remains good, and therefore the issue

* This is a mere flimsy pretext. Whoever now hears of Rente Perpetuelle, or Old Cortes Bonds ! No one. It is obvious that the extent to which a clandestine issue of Bonds may be carried, as also the buying up of Bonds on which no Dividends are paying, at merely nominal prices, is illimitable, as the consequences are overwhelming and frightful. I am sorry to be obliged to say that such actions are nothing else than privately stealing and swindling ; and that too, I again repeat, property in which the State is interested, as well as the subject.

of another prepared to represent, and supersede it, but not called for and exchanged against it, is an increase of the debt, and the money so raised upon the public, raised by concealing the extent of the mortgage existing on Spain, and which, we have a right to argue, would not have been lent, if the truth had not been concealed. If this be the nature of the transaction, it is an offence against the country, as well as against individuals, and would form a fit subject for inquiry by the Chancellor of the Exchequer, in virtue of his office, and a Committee. The Spanish Committee will, doubtless, most gladly put the documents into his hands, and assist him with any information it possesses.

Or look again at the unequal conduct of the Spanish Government in the matter of the Autumn dividend of 1836, which was paid *in money to the Home creditor, but to the British in paper, a paper called Treasury Bonds, and purporting to be due principal and interest at 5 per cent. within the year.*

When at maturity, however, they were dishonoured, as a matter of course; but to keep up the deception as long as possible, and with the greatest effect, the Cabinet of Madrid actually ordered its Ambassadors at London and Paris to step forward before the public of those two capitals by advertisements in the papers, stating that *though unfortunately lapsed, they would, nevertheless, be paid, and in a month.* And what was the consequence? Reliance on the faith and honour of the Embassies, fatally induced many parties who had

suffered by the Active Stock, to endeavour to recover, in part, their losses, by selling their Active Bonds at 17*l.* per cent., and buying Treasury Bonds at 60*l.* per cent, and better; and which, *so guaranteed*, seemed a safe transaction. Nevertheless, *although so guaranteed*, they were never taken up, but remain to this hour another instance of the criminal and insolent trifling of Spain with the property of British subjects. But what, if parties goaded to the quick by such conduct, had, in a moment of excitement, committed some outrage against the person or residence of the Ambassador, which might have endangered the peace between the countries, or its honour in the eyes of other nations? Could Government have punished the parties so acting? Doubtless it would; *but the Ambassador had stepped out of his office*; and why, then, as the subject happily maintained that propriety of demeanour that became him, under provocation, in its way, without a parallel, did not Government think itself peculiarly called on to demand explanations and redress from the Cabinet of Madrid? Is an Embassy to expect perfect security amongst us, and in return to lend itself to a deception on the public, in which it need not have had either part or share, because no part of its functions? It was because it was no part of its functions, that the public thought that the Spanish Government, wishing to give the most perfect assurance of payment, had chosen this new, unusual,

and the most sacred channel it could, instead of the common one of the financial agency, to do it by.

And how has the Spanish Government followed up its conduct in this matter of Treasury Bonds? Actually by capitalizing and paying 3 per cent. on Dividends which have accrued *subsequently*, and leaving the Treasury Bills still dishonoured!*

But why this fixed determination not to fulfil an engagement, the amount of which, perhaps, is not more than 200,000*l.*, or pay a 5 per cent. interest on the sum until it can be redeemed; especially when the remainder of the Treasury Bonds issued in lieu of that Dividend are understood to have been taken up by the Spanish Government at Par in mixed operations with great capitalists, *and paid by good Bills on the Havannah?* In my humble opinion, because that Government intends to reduce the whole of its foreign debt to a 3 per cent. Stock, and therefore does not like to leave behind it any fragment bearing 5 per cent., although *the Spaniard has had that very Dividend in gold.*†

The opinion of Senhor Pebrer on the above transactions, (a gentleman who had given his attention in a high degree to Spanish Finance and

* For fuller information, and for the official correspondence on the subject of the Treasury Bonds of Spain, the reader is referred, and it will repay his perusal, to Mr. Tasker's pamphlet, lately published by Mr. Ridgway, Piccadilly.

† There must be some covert reason for Spain refusing to pay such a trifle as the principal, or the interest on it, till she can.

statistics) as delivered to the Finance Minister, is as follows :

“ SIR, I told you that the decrees respecting Coupons, would not obtain favour in Great Britain, and that no new financial arrangement which is not based in *justice and fairness* to the foreign creditors will be supported by the creditors. There is only one way for the restoration of Spanish credit, and that is, *for the Spanish Government to act honestly*. Before any new financial decrees will avail any thing, the contract respecting the Treasury Bills which has been so scandalously disregarded must be fulfilled, and the principal and interest paid. It seems incredible, that an obligation so sacred as that was, guaranteed by the Queen, the Cortes, by the two Ambassadors in London and Paris, and by the Agents employed by the Government, in those two cities to carry the said obligation into effect, should have been suffered to have been ever dishonoured, and it seems the more wonderful that any nation, and especially one ranking so high among the nations of Europe as Spain once did, should have suffered the dishonour to remain so long a reproach to our country. The Treasury Bills, Bonds, or whatever their right denomination may be in England must be paid off in full, as the first step for redeeming our character. Confidence can never be restored but by that proof of an honest intention for the future. No pledge greater than the one which to this time remains unredeemed

can possibly be given in support of any new measure, and so long as it remains, no faith can be placed in any engagement of the Government for the future."

The Spanish Committee, taking the same view of "the decree respecting coupons," which Senhor Pebrer has thus sanctioned, rejected it, as "not based in justice and fairness" to the creditor, and as I have attempted to shew; but eventually, on account of the urgent necessities of the creditors, and the promise of the Finance Minister, at the time, Senhor Rull, *to commence paying dividends on active 5 per cent. stock itself in 1843, provided the decree were accepted*, consented to forego further opposition to it.

That settled, the present effort of the Spanish Government seems to be to compel the surrender of the Treasury Bonds, in order to merge them in the new 3 per cent. Stock, notwithstanding their peculiar and remarkable history and claims. Now it is hoped that the House and the country will awake at last, and take a stand somewhere; and on no better ground can they do it, than on this of these Treasury Bonds, paid to the home creditor in cash, "guaranteed by Queen, Cortes, and the two Ambassadors at London and Paris, and by the Financial Agencies in those cities," paid also to overgrown capitalists in good Cuba bills, and denied only to those supposed to be *defenceless*. The amount out in these bills is supposed to be

small,* (unless any clandestine issue has been made of them;) and, therefore, the holders and the Spanish creditors generally, call upon the House and Government to demand that the law of the Treasury Bonds shall be forthwith fulfilled, because it will satisfy a debt which has prior claims to the New 3 per cent. Stock, and because they believe fulfilment to be withheld from a design of reducing and merging all Spanish debt of a higher denomination in this New Stock. They call also for the fulfilment of the law of the Passive Stock, which represents *one third* of the original Cortes Loans. And this they do, venturing to think that they are guilty of *no great unfairness towards the Spaniard*, when it is considered, out of a period of *eighteen years*, that he has had *thirteen years full dividends*, while the Englishman, out of the same period, has had *but one, or one and a half*.

The Foreign Spanish debt is a good and legal debt: it was lawfully contracted with those persons

* Sir Isaac Lyon Goldsmid emphatically informed the committee that not a Treasury Bond had issued from his office, but for coupons of 1836, and which he still retained. See 1st Report of Spanish Committee, pages 59 and 62. He further states that, in fact, and virtually, both the ambassador and himself were deceived (page 62 in his letter to the Committee) by the Government of Madrid! If such is the case, the Hon. Baronet should make this plain to the Earl of Aberdeen, who is exerting himself in favour of the Treasury Bondholders: and also indignantly and constantly remonstrate with the Spanish Government, until it put him right with the British public.

and powers in the State entitled to contract in its name ; and therefore being a contract in all the strictness of law, and obligatory on the whole State and nation, which is indispensably bound to discharge the debt, *should be demanded.* For if the Ministry of the day had thought it for the interests of this country to prevent Ferdinand and the Cortes, and subsequently, Isabella, raising a Loan here, it should have done so by Act of Parliament, as Sir Robert Walpole did the Emperor. If the Government had wished to prevent Don Pedro reinstating his daughter, or that daughter consolidating her throne and civil liberty, so far as that was proposed to be done by the capital of this country, it should have taken the same course. But what did it do ? Instead of restraining assistance, it suspended the Foreign Enlistment Act, which was tantamount to saying that it would have repealed a Foreign Loan Act, had such a prohibitory statute existed. Now, the House thought the Government committed to the protection of the Legionaries, by the repeal of the Enlistment Act. And does not the House think that the Government also was and is committed to the protection of the Loans of the same period, for, as a Foreign Loan Act would have been repealed had it existed, equally with the Enlistment Act, it is quite possible and fair to regard the Loans to Portugal and Spain, as if made under a suspension especially enacted ?

I say that this argument is a fair one. The

Attorney-General in the debate on Sir Robert Walpole's Bill, argued that assistance by money was often more effectual than by person, and therefore that his Majesty should have a power of restraint over the purses of his subjects. If, therefore, the late Cabinet removed the restraint on the lesser assistance, is it not to be presumed that they would have removed that on the greater had it existed?

But I do not rest the claim of these and other loans to Government assistance on that ground; I rest it on the right of the subject, in the absence of prohibition, to contract with the existing persons and powers of a State lawfully entitled to contract; and on the obligation of his Government to defend his property in every lawful use and investment of it.

To show how short an Act would have been sufficient to prevent the original Cortes or any subsequent Loans, I will place in the Appendix that by which Sir Robert Walpole foiled the Emperor. If to this it should be replied, that no Act was attempted, because neither the House nor the Country would have borne it; then I say that the House and the Country must accept the alternative of giving protection. If it be pleaded that it was an oversight and neglect of the ministry, then the Government must settle that matter as it can with the country, but in the mean time fulfil its obligation of giving protection to the subject.

If the poor and illiterate are bound to know the law, or take the consequences, much more is a Government, a Parliament, and a Country. One course alone is now open even to Parliament, for the subject certainly contracted *under the safeguard of the Constitution, and with the sanction and permission of Parliament and the Country.*

I have heard it asked, "Why lend money to those perfidious States?" I reply, why make commercial and other treaties with the same States? Perfidiousness has nothing to do with the question. That which has really to do with it is Government protection. With this protection, Foreign Loans would be equally well observed with commercial and other treaties. Without it, commercial and other treaties would be equally ill observed with Foreign Loans. Look at the Commercial Treaty with Naples; and think you that Spain, Portugal, and others, would observe theirs a bit better than Naples did, or than they do their Loan Contracts, but for fear of the stick? Would not these lazy, selfish, and unprincipled countries be continually raising and raising their import duties against British industry, *in the teeth of their treaties*, whenever an idle, spendthrift Court, or Ministry wanted money; would they not raise it on the foreigner, if he would permit them, *just as they will not now reduce the duties, or tax themselves to pay their debts?* If Government were to make this objection, I should say that it sought to prove its position by

taking advantage of its own wrong ; and in a way by which the tables might be speedily turned against itself, and its Commercial treaties, if it only transferred to the Bondholder the command of the public force of the Empire.

But the South American States were maiden borrowers, and also the North American ; and their perfidiousness could not be known as now it is, prior to experience. Shall we have redress against them ? or is perfidiousness another only out of a goodly assortment of pretexts in Government's possession still unexhausted ? Why, if Government was itself aware of the perfidy of Spain, did it not save the wilful amongst its subjects from themselves ; and the " ignorant and unwary " from the toils and machinations of Spain and her co-adjutors, if not on the individual's account, yet on account of the loss the empire would receive through these individuals ? It was its duty so to have done.

But to recur : the debt being good against Spain, I ask in her case, as in that of Portugal, why *the rule of justice*, which this State itself acts upon, and which Viscount Melbourne's Cabinet had adopted as properly applicable to and exigible of other States, viz. *that it is the duty of a Government to provide for its debt first*, is not to be enforced ? Without it, there will be no safety for British subjects ; for even were the Spanish Government to have a windfall from the very skies, and of which not one penny had been raised on

Spanish industry, it would still be eaten up at home by the idle and hungry pensioners and servants of a Peninsular Government. There is no safety for British creditors, I repeat, whatever may be the circumstances of Spain, except Parliament take the matter up, and demand that the above principle be acted on. The British Government, when a deficiency occurs in its revenues, does not recur to the money set apart for the public debt, whether belonging to foreigner or native, but keeps it intact, and raises larger contributions on its subjects. Why then is not this principle enforced against Portugal and Spain, which, to the surprise of every one, have disclosed under a free Government, that the principles pervading their people, are so dishonest, that there is no other way of obtaining payment of a debt but by enforcing it? If honest, but struggling with circumstances, their creditors would not urge their Government, immoderately to press them; but when they are evidently endeavouring to shake off their debt, for the want of which, their creditors, besides all else that they have suffered, are nearly within the precincts of a jail, then I say that *it is time to demand payment*, and that the Government can no longer avoid doing so *without deep constitutional responsibility*. Why are British subjects to starve, pending a return of this or that people to a sense of their obligation to pay their debts; and which return may never take place; and which return

never will take place, except by compulsion, in a nation which year by year is sedulously and perseveringly employed in writing off one portion or other of those debts? Why are they to be sent across the seas, to the back woods of the most distant colonies, there to contend with the Aborigines for a subsistence, as I know to be the case, while parties in the Spanish Cortes are wasting the Session in personalities, or a contention for place, and obstructing the course of business, by which alone it is possible, that abuses may be got rid of and real reform commenced? Not a paper comes to hand but is filled with accusations of this sort; and of the existence, of late years multiplied, of useless and unearned places and pensions; of overgrown and inefficient establishments; and of a home combination of ins and outs to feed one another, at all events, *and let the foreign creditor take the crumbs.* And never will they, *of their free will*, allow this latter personage to receive the interest due to him.

But is this selfish attention to themselves, and cruel and unjust disregard of others, to be complied with, by this Government, until the arrears have so accumulated, and perhaps designedly, that it will be impossible for Spain or any other country to satisfy them? I say, not; and that the principle to be insisted on towards Spain, and other Governments, should be, 'that, the British Government will require that the interest of the debt due to its subjects shall be set apart, first; and the

residue, that only which those Governments shall apply to their own uses.'

Catalonia will not submit to a Commercial Treaty, or alteration of the Tariff. Very well; then let her adopt the alternative. If she choose to contradict the wishes of the rest of Spain, which she cannot supply with goods, and prefers cheating the Customs in her own province. and acting there the smuggler's part, and taking his profit, and compelling the continuance of that system in the rest of the kingdom, she must induce the rest of Spain to submit to direct taxation to pay the Foreign Debt, and herself afford a cheerful example of practice upon precept. And if Spain choose to succumb to this Catalonian opposition to a Treaty, Spain herself should be prepared to adopt the Catalonian alternative. A nation, says Vattel, is *indispensably bound to pay its debts; the right of its creditor is indefeasible*; it is as much bound to pay a loan, made it by a private individual, as if that Loan were made it by the State of which he is the subject.

Now, do the States at present indebted to private individuals of this country, comply with the rule, as *expressed* by Vattel, in giving them *only the residue of their revenues, if any*, in satisfaction of their debts? Looking at this Jurist's rule, ought they not rather to invert their practice; pay the interest due first, and keep the residue for themselves? We are not to starve while they are

disputing. Let Catalonia and Spain dispute as long as they like, as to which party is to have the duty on English Cottons, the Treasury or the Smuggler, but while this dispute is going on, let Spain put aside and pay over, without touching it, the interest due on the Foreign Debt.

Until the late Cabinet took up the cause of the creditor of Foreign States, this State, in direct opposition to its engagements, instead of supporting, seemed bent on ruining him.

It would not give redress, because that would encourage Foreign Loans; or, in other words, it determined *to let the evil cure itself!* A pretty sample this of Constitutional conduct, in the servants of the first Constitutional State in the world! It makes the subject ask, whether he does really live under a Constitution, in the benefits of which he has a part and share, or under an oligarchy? The Constitution, in this instance, seems to have been superseded; for a more unconstitutional course, as well as unworthy, costly and ineffectual one, could not have been devised against a right of the subject.

Unconstitutional it has been shewn to be: unworthy is it, because indirect where it might have been open and direct: costly, because at this moment, not less perhaps than 100,000,000*l.* principal and interest, and of which, as respects the interest, a large part might be recovered to the country at no expense whatever, is lost to it, and at a time

when it might be of so much use to its finances. Another, perhaps equal, sum is put in manifest jeopardy; for those States which yet pay, are told that they may cease paying the moment that such payment becomes inconvenient to them. And, further, an untold sum may any day leave the country under the name of a loan, but by Government order in the sense of a gift. Government, in fact, by the adoption of this principle, declared that it would not prevent the capital of the country leaving it; nor would it bring it back; and, that as much might go as liked!

But besides this, it is manifestly no cure at all, even in the case of dishonest States. Look at the revival of confidence towards them, the moment a return to full dividends is made, or in proportion to that return. You see it in Chili stock, which a year or two ago was at 20*l.* per cent., and is now at 90 per cent. You see it even in Portuguese, which at 37*l.* for a $2\frac{1}{2}$ per cent. stock, gives 74*l.* cent. for 5 per cent.; and this, notwithstanding the efforts of both these States, and still in progress on part of this latter, to shake off as much as possible of the debt.

Such a system cannot continue, but must give way either to *prohibition* or *protection*. As to the past, the country is unquestionably committed to protection; but for the future, it may adopt prohibition if it please. Sir Robert Walpole's Act completely succeeded. No loan was contracted in

London directly, or in Amsterdam indirectly, with British capital, and the Act was only suffered to expire, because it was thought to be for the interest of the country to allow Foreign Loans. If the tide of opinion has now turned the other way, the measure ought to be tried again. It cannot fail either of complete success, or such a portion of success as renders it the duty of a Government to revive it in some shape or other. It could not make the matter worse, while it would rid the Government honourably and legally of its obligation to protection. Partial success could not fail to follow an Act simply declaratory of the formal withdrawal of Government protection ; complete success, a penal statute which would render such an increased interest necessary to cover the risk, as the borrowing State could scarcely offer, and certainly could not be trusted to pay. At the very least, it must diminish the evil, and save some, which it is always a Government's duty to do ; "the ignorant and unwary," for instance, and those also who, looking at the present state of the law, take what they believe to be *a lawful and therefore safe opportunity* of engaging in Foreign Loans. They believe, and in a constitutional country they ought to be right, that the State cannot be for ever insensible to its obligations in this matter, but that some Administration will arise which will compel Foreign States to pay their debts.

If, however, Government will not prohibit, be-

cause it may choose to allege that it cannot prohibit so as to prevent, foreign Loans, either on account of the irrepressible nature of the trade arising from an existing necessity for it; or else because it would be unfriendly to close your money market against nations at peace with you, then, I say, that it ought to protect them equally with any other branch of trade. The Government is not at liberty to sacrifice any portion of the property of a country, the whole of which is committed to its charge, if it can help it. If, therefore, the capital of this is so indispensable to the progress and well being of other countries, that it would be an act of unfriendliness to attempt to prevent their borrowing it; then are the borrowing States bound by *every decent feeling*, as well as moral and legal obligation to fulfil their contract, and this State doubly and trebly armed, and excused, in the face of the whole world, in taking compulsory measures to enforce its due observance. Protection, too, might do as well as prohibition. It would be without the imputed selfishness and unfriendliness of prohibition, *while it would cut off the bad part of the trade*. No nation would contract a Loan, which it knew it would be compelled to observe, unless it had the full intention and ability of doing so. But Government does not consider the trade irrepressible or that it is unfriendly to try to repress it; for it has been and is attempting it in its own way. It is therefore inexcusable in bygone Governments, both towards

the country and individuals, not to have passed a prohibitory statute, if they intended not to protect. They have thus allowed individuals to incur a cruel and enormous loss, without exempting the country from its obligations. In fact, the arrear of the debt lies at the door of the country through the fault of certain Administrations. The creditors of the defaulting States have still the same claim on it they ever had for redress or compensation.

On account of the length to which this pamphlet has run, I shall attempt no recapitulation, but content myself with urging parties interested, to a practical use of this exposition of their rights and claims. They should, each Loan for itself, petition the House forthwith for redress or compensation, and pray to be heard by counsel at the bar. They are reminded that the abstract right is theirs, and therefore that Government must excuse itself, as it can, *on each separate case*. There is no general answer for all ; as, for instance, " a fear of war ;" or, being " no party ;" or, " the impolicy of foreign loans ;" for these, and all similar ones, which attack our claim *in limine*, and would deny redress in any case, were overruled, when Parliament, after a temporary restraint, which it was urged to make permanent, left Foreign Loans open as before ; and by no prohibition having been enacted since. It is not likely that Government will be able to excuse itself on any, provided they were legally contracted with those persons and powers of the State entitled to

contract in its name. The false and perfidious representations of States as regards their means, resources, and intentions; their hypocritical abuse of solemn, formal, and legal guarantees, is an additional offence against this country and its deceived subjects, instead of a loophole through which this State, which sounds a trumpet before it, as to its religious performance of all its obligations at home and abroad, may creep away from its engagements.

The people of this country trusted their money to Portugal and Spain, because become constitutional countries, which they thought a better guarantee for payment, than that offered by Autocratic rulers. And so it ought to be, for the faults and vices which may exist in an individual, ought not to be found, and could not have been expected, in the public principles of Constitutional States.

It was a trial made on good and reasonable grounds, however it has failed. But are these countries therefore to escape because they have belied the principles which justly belong to such a form of Government, and the profession of which they put forward to deceive others? Ought they not, rather, to meet with double punishment, instead of finding apologists? Ought they not to be required to make the fullest reparation, instead of being suffered quietly to enjoy a premium for dishonesty? But in place of this, I doubt not, we shall be put off with *the residue of Government assistance, if any*; remonstrance only, *if that*; just as we are put off

with *the residue of these States' revenues, if any*; unless we exert ourselves.

The Bondholders may rely upon it, that there will be a perfect parallel between the conduct of the Home and Foreign Governments towards them, unless they awake from their lethargy and go to Parliament.

They have good ground under them, good footing, if they would only avail themselves of it. Why do not the holders of New Grenada Bonds make a beginning? They have the verdict of the late Cabinet in their favour. Why do they not take Viscount Palmerston's letter in their hands, and go to Parliament, and complain that the Government of that State has not been made "*responsible*," although it has not "*faithfully presented, without touching them, all the funds destined by law, for the payment of the interest on the foreign debt?*" Can men have a better case, and cause? Does Justice ordinarily walk to us, of herself; or, are we not usually compelled to seek her in the proper Court?

Let me therefore once more implore the creditors of each of the defaulting States to take Counsel's opinion on the legality of their debt, and go by petition to Parliament, *each set for themselves*, for the case of each may differ in some respects from that of others, *and pray for redress or compensation, and to be heard by Counsel at the Bar*. The case of any one, and the cause altogether, are of

quite sufficient importance to admit of their praying for that indulgence. It is absolutely essential that they should do so, for no arrangement which they may succeed in making with these dishonest States, will stand long, they may depend upon it, except under a Parliamentary recognition of their right to the protection of the State. Let them go, if possible, bodily ; but if weak fears of Parliamentary justice keep some away, go any how ; go individually, by petition of course I mean, rather than not go at all.

APPENDIX.

ACT OF PARLIAMENT, GEORGE II.

ANNO TERTIO, GEORGH II. REGIS.

An Act to enable His Majesty to prohibit any Person or Persons, His Majesty's Subjects, or residing within this Kingdom, to advance or lend any Sum or Sums of Money to any Foreign Prince, State, or Potentate, without License obtained from His Majesty under His Privy Seal, or some greater authority.

For preventing the many mischiefs and inconveniencies that may happen from great sums of money being lent or advanced by His Majesty's subjects to Foreign Princes, States, or Potentates, without His Majesty's license, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for His Majesty, his heirs, and successors, from time to time, when he or they shall judge it necessary for the public good and welfare of this realm, by his or their proclamation, to be issued under the Great Seal of Great Britain, by and with the advice of his or their privy council, to prohibit and forbid all persons, being subjects of His Majesty, his heirs, or successors, or residing within this realm, for and during such time as shall be limited and specified in such proclamation, not exceeding the space of twelve months in the whole, to be computed from the end of twenty days after the date of such proclamation, directly, or indirectly, by themselves, or by any other person, to lend or ad-

vance, or cause or procure to be lent or advanced, any sum or sums of money, either in ready money, or by bill or bills of exchange, bullion, jewels, or other effects, or by any other way or means whatsoever, to, or in trust for, or for the use or service of any Foreign Prince, State, or Potentate, without license first had and obtained for that purpose, from His Majesty, his heirs, or successors, and his or their great or privy seal; and also to prohibit and forbid all such persons, during such time as is before described, directly or indirectly, by themselves, or any other person, to subscribe or contribute to, or solicit or procure any other person to subscribe or contribute to the lending or advancing any sum or sums of money, to or for the use or service of any Foreign Prince, State, or Potentate, by any of the ways and means above-mentioned, or otherwise, without such license, as aforesaid.

And be it further enacted by the authority aforesaid, That if at any time hereafter, during the time limited and specified in any such proclamation as aforesaid, any such person shall knowingly offend in any of the premises, contrary to the tenor and true meaning of such proclamation, and of this Act, every person so offending shall, for every such offence, forfeit treble the value of the money, bills of exchange, bullion, jewels, or other effects so lent or advanced, to be recovered by any person or persons in any of His Majesty's Courts of Record at Westminster, by action of debt, bill, plaint, or information, wherein no essoign, protection, or wager of law shall be allowed, nor any more than one imparlance; two third parts of which forfeitures shall be to the use of his Majesty, his heirs, and successors, and the other third part thereof to the use of such person or persons, as shall inform or sue for the same.

Provided always, That nothing contained in this Act, or in any proclamation to be issued in pursuance thereof, shall extend, or be construed to extend, to prohibit or restrain any person or persons whatsoever from buying, selling, dealing, or negotiating in any funds, annuities, obligations, or other public securities of any Foreign Prince, State, or Potentate,

which shall be subsisting and commonly negotiated as Public Funds or Securities, at the time of issuing of any such proclamation, or from buying, selling, or being interested or concerned in the stock or actions of any Foreign Corporation, Company, or Society, or in any Foreign Bank, which was in being and established before the issuing of any such proclamation, in such manner as such person or persons might have bought, sold, dealt, or negotiated, or have been interested or concerned therein respectively, according to the laws and statutes of this realm, which shall be in force before the issuing of such proclamation, any thing herein contained to the contrary in any wise notwithstanding.

Provided always, That no person or persons shall be sued or prosecuted for any offence committed against this Act, unless such prosecution be commenced within twelve calendar months next after the offence committed.

And be it enacted, That this Act shall continue and be of force for the space of two years, from the twenty-fifth day of March, one thousand seven hundred and thirty, and from thence to the end of the then next session of Parliament, and no longer.

PORTUGUESE CONSOLIDATED 3 PER CENT. STOCK.

£4,000,000. STERLING.

LETTER C. No. 1156. £100 STERLING.

By virtue of a Decree, passed at Lisbon, the 19th December, 1834, by the Government of Her most Faithful Majesty Dona Maria the second Queen of Portugal, Algarves, and the dominions thereof, I, José da Silva Carvalho, Councillor of State, Minister of Finance and President of the Tribunal of the Treasury to Her most Faithful Majesty, do declare and make known by this general Bond of Her said Majesty Queen

Dona Maria the Second, for her and her successors, Kings and Queens for the time being of Portugal, Algarves, and the dominions thereof. To all whom it may concern, that for divers views and motives the said Government have resolved to create a stock of four million pounds sterling, English money, in the name of Her said Majesty Queen Dona Maria the Second, and for her account to be negotiated through Nathan Mayer Rothschild of London, Banker; and I, in the name and on the behalf of Her said Majesty, direct and authorise the creation and issue of certificates for the amount of the said stock of four million pounds sterling, English money, such certificates being respectively marked and numbered, and for such sums as follows:

- A. No. 1 to 4000. 4000 certificates of 200*l.* each. £800,000
 B. No. 1 to 8000. 8000 certificates of 150*l.* each. 1,200,000
 C. No. 1 to 20,000. 20,000 certificates of 100*l.* each. 2,000,000

£4000,000

with as many half year dividend warrants annexed to such certificates as can be conveniently annexed thereto.

Now, I hereby declare Her said Majesty Queen Donna Maria the Second and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof, debtors to all those concerned in the said stock of four million pounds sterling, for the amount expressed in each certificate. And I acknowledge Her said Majesty Queen Dona Maria the Second, and her successors, Kings and Queens for the time being, of Portugal, Algarves, and the dominions thereof, bound to every person who shall for the time being be the holder of one or more of the certificates for the punctual payment of the principal sum for which such certificate or certificates shall be given, and of the interest thereof; *and I engage that the interest of the said stock of four millions pounds sterling shall be paid in London, Lisbon, Paris, and Francfort, at the rate of three pounds sterling per cent. per annum, in equal half yearly payments, on the 1st day of January and the 1st day of July*

in every year, and that the first payment thereof shall be made on the 1st day of July next ensuing the date hereof; and that the same shall be paid when due on presentation of the Dividend Warrants to be annexed to the certificates, and that such interest shall be paid free of all expenses and deductions whatsoever to the holders of the certificates on Dividend Warrants.

I further engage for Her said Majesty Queen Donna Maria the Second, and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof, that *the annual sum of sixty thousand pounds shall from and after the 1st day of July, 1835, be annually applied to the redemption of the said stock as follows:* during such time as the price of the certificates to be so issued and created as aforesaid shall be in the Stock Exchange in England at or under par, then such redemption shall be made by the purchase of a competent number of the certificates; and during such time as the price of the said certificates in the said Stock Exchange shall be above par, the certificates for the time being to be redeemed shall be determined by lots to be drawn in London in presence of the Ambassador, Minister Plenipotentiary, or Charge d'Affaires for the time being of Her said Majesty, and her successors, or such persons as they shall appoint, and the agents for the said Nathan Mayer Rothschild and a notary public, on the 1st day of January and the 1st day of July in each year; and the result of such determination shall be made known immediately by advertisement in the London Gazette, and the certificates so determined on shall be paid off at par with the interest due thereon by two equal instalments on the 1st day of January and the 1st day of July then next following. And all certificates for the time being redeemed shall be cancelled and deposited in the Bank of England, in the presence of His Excellency Christovão Pedro de Moraes Sarmento, or such other Ambassador or Minister Plenipotentiary or Charge d'Affaires for the time being, or of some other person for that purpose duly authorised by Her said Majesty Queen Dona

Maria the Second, and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof; and Nathan Mayer Rothschild and a notary public shall be also present at the cancelling of the certificates so redeemed, and the depositing the same in the Bank of England.

And I hereby further engage for Her said Majesty Queen Dona Maria the Second, and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof, by these presents, that *the said sum of four millions pounds, and the interest thereof, and the monies to be applied for the redemption thereof, shall be charged and secured on all the revenues of Portugal, the Azores, and all other dominions of Her said Majesty, and her successors, Kings and Queens as aforesaid; and I hereby for and on the behalf of Her said Majesty pledge all the revenues of Portugal, the Azores, and all other dominions of Her said Majesty, and her said successors, to the payment of the said stock and the interest thereof, and the monies to be applied for the redemption thereof.*

And I do hereby further engage for Her said Majesty Queen Dona Maria the Second, and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof, that *the interest of the said stock, and the redemption of such stock by means of the annual sum of sixty thousand pounds to be so applied for such redemption, as aforesaid, shall be respectively paid and effected as well in time of war as in time of peace; and whether the holders of the said certificates, or any of them, shall be domiciled in or be a natural subject of any nation, that is, either friendly or hostile to the kingdom of Portugal, Algarves, or the dominions thereof, or any part thereof, and if the holder of any certificate or certificates shall by his will give or bequeath his certificate or certificates to any person or persons, or shall die intestate, his or her interest in the same certificate or certificates shall pass to his or her executor or executors, administrator or administrators, legatee or legatees, representative or representatives, according to the laws of the country in which such holder shall be domi-*

ciled at the time of his decease ; and that all such certificates shall be exempt from sequestration for claims either of the kingdom of Portugal, Algarves, or the dominions thereof, or of any natural subject or subjects thereof.

And I do hereby declare for Her said Majesty Queen Dona Maria the Second, and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof, *that this present obligation shall be kept inviolable, and shall in no wise be affected by any political change or circumstance whatsoever, and shall be held equally sacred in peace as well as in time of war between Portugal and any other country in or out of Europe.*

And I hereby bind Her said Majesty Queen Dona Maria the Second, and her successors, Kings and Queens of Portugal, and the dominions thereof, *to the performance of all the foregoing engagements in the most solemn manner ; and do declare that no judicial pleas whatever, privilege in suits, or any pretence shall avail her said Majesty Queen Dona Maria the Second, and her successors, Kings and Queens of Portugal, Algarves, and the dominions thereof, in pleading and counter-pleading ; all which we formerly and deliberately renounce, as well as any plea by whatever name it may be called, and which is contrary to this bond ; revoking by these presents all laws, opinions, and decrees to the contrary notwithstanding, and as if each had been separately declared and specified.*

In faith of which I, the said José da Silva Carvalho, have hereunto set my hand and seal in Lisbon, on the 22nd day of December, 1834.

(Signed) JOSÉ DA SILVA CARVALHO.

As Witness—Marquez de Sta. Iria.

As Witness—O Conselheiro do Tribunal do Thesoure,
José Joamq. Gomes de Castro.

I, Dona Maria the Second, Queen of Portugal, Algarves, and the dominions thereof do hereby approve of this Bond, contained in one skin of parchment.

A. RAINHA M.R.

JOSÉ DA SILVA CARVALHO.

This is to certify, that the Bearer hereof is entitled to the sum of one hundred pounds sterling, part of the stock of £4,000,000, secured by the general Bond of Her Most Faithful Majesty Dona Maria the Second, Queen of Portugal, and the interest thereon, value having been duly paid for the same ; and I, the undersigned, declare this to be a certificate granted in pursuance of the said general Bond, of which the above is a copy.

London, 1st April, 1835.

J. Z. Menduaha.

{ Her Most Faithful Majesty's
} Financial Agent in London.

C. Pedro Moraes Sarmento.

{ Envoy Extraordinary and
} Minister Plenipotentiary of
} Her most Faithful Majesty
} in London.

{ Agent for the Conversion.

PORTUGUESE LOANS AND DIVIDENDS.

THE undersigned, Minister and Agents of Her Most Faithful Majesty in London, make known to all persons whom it may concern, Her Majesty's Decree of the 2nd instant transcribed below, for the CONVERSION of the external DEBT, and the RESUMPTION of the PAYMENT of the DIVIDENDS in an ascending scale, in the manner therein declared ; and in consequence thereof, all holders of Portuguese Stock are requested to declare at the Office of the Financial Agency (Finsbury Chambers, London Wall), the sums they have to convert, specifying the description of Stock, in order to the carrying into execution of the said Decree.

They likewise announce, that in conformity with the same Decree, the said Agency will pay in cash one-half of the Dividend due on the 1st December and 1st January next—

the Coupons being received every Monday, Wednesday, and Friday, from the day they become due, between the hours of Eleven and Two, and the Payment realized Eight Days afterwards, on Tuesdays, Thursdays, and Saturdays, within the same hours.

In like manner, and in the order they fall due the DEBENTURES of ALL the different issues will also be received, for the payment of the Interest due on them up to the said 1st December and 1st January next.

BARON DA TORRE DE MONCORVO.

A. DE PAIVA PEREIRA DA SILVA.

J. M. DE CARVALHO E OLIVERIA.

London, 11th Nov. 1840.

DECREE.

“Taking into consideration the imperious necessity of guaranteeing and assuring to the holders of Bonds of the Foreign Loans, the punctual payments of the interest on their respective capitals, as far as may be compatible with the resources of the State, and without affecting the obligations contracted with them; and being desirous to provide for this important object by the adoption of a measure which, whilst it temporarily reduces the payment of the interest of said Loans, secures at the same time its full reimbursement to the creditors; as the public revenues, which are now insufficient to meet the full payment of this charge, promise, however, an increase which progressively must enable the Government to discharge all their obligations contracted in and out of the country; and considering, moreover, that the proposed plan is the most just, and capable of conciliating the resources of the national treasury with the rights of the foreign creditors, whilst it assures and guarantees, in a solid manner, the fulfilment of the contracts: Being anxious to exercise towards them an act of justice claimed by the national honour and credit, and to put an end to the uncertainty of the interests of a class of creditors so worthy of my Royal contemplation, I have thought

proper, using the authority granted in the Government by the law of the 17th October of this year, to Decree as follows:—

“ARTICLE I.—The Bonds of all the Loans contracted out of the country since the year 1831 are allowed to be converted into a New 5 per Cent. Stock, under the following clauses:—

“ARTICLE II.—This conversion will comprehend—1st. The capital of the said Bonds of the Loans contracted in England since the year 1831 until 1837, together with the nominal amount of the Coupons due up to the end of the present year, exclusive of the part corresponding to the Half Dividend which is to be paid in cash at the time it becomes due, conformably to the 4th Art. of the Law of the 17th October last, above referred to.—2nd. The Debentures issued in exchange of Coupons, proportionably to the interest they bear of $3\frac{1}{2}$ pence per day on every £100, and which interest will be fully paid in cash until the end of the present half-year.

“ARTICLE III.—The creation and issue of the New 5 per cent. Stock will be strictly limited to the amount of the Debt which may be offered for conversion, and calculated as follows:—£39. 15s. for every £100. 3 per cent. Bonds with the Coupons annexed; and in like manner £116. 5s. for every £100. 5 per cent. Bond, £139. 10s. for every £100. 6 per cent. Bond, and £106. 9s. 2d. for every £100. in Debentures; besides the fraction of the interest corresponding to the month of December next, which is to be added thereto in the conversion of the 5 and 6 per cent. Bonds, and of the Debentures issued for Dividends of the same description, as the interest of the new Stock begins from the 1st January 1841.

“ARTICLE IV.—The numbers and amounts of the Bonds of the New Stock, issued in conformity with the preceding article, are to be successively published in the public papers, and likewise the cancelling and amortization of those in exchange for which they are issued.

“ARTICLE V.—The interest of the New Stock will be payable half-yearly on the 1st January and 1st July of each year; the first Dividend to become due on the 1st July, 1841. This

payment will be made at the rate of $2\frac{1}{2}$ per Cent, per Annum, during the four years, from January, 1841, to December, 1844—of 3 per Cent. from 1845 to 1848—of 4 per cent. from 1849 to 1852—of 5 per Cent. in the following eight years, from 1853 to 1860; and of 6 per Cent, from 1861, as long as may be necessary for the integral reimbursement of the part of the interest unpaid during the first 12 years, which will end in 1852, returning afterwards to the rate of 5 per Cent. until the Stock shall be completely redeemed.

“ARTICLE VI.—The Coupons of the New Stock will state the amount corresponding to each, according to the scale in the preceding article, with the declaration of their being payable in London at the time of falling due, or received in advance from the 1st November and 1st May of each year, at the Lisbon and Oporto Custom houses (Alfandega Grande de Lisboa, e Alfandega do Porto), at the fixed exchange of 55 pence per milreis, in payment of the duties which are there collected for the Public Treasury, if the Government shall not announce one month prior to the said 1st Nov. and 1st May, that the integral payment of the respective Coupons will be made in London.

“ARTICLE VII.—The New Stock will have the same securities as the old Bonds, according to the original contracts, of all the revenues of the State in general, and specially those of the Lisbon and Oporto Custom houses by their application to the payment of the interest in the manner declared in the preceding article. The Bonds will be payable to the Bearer; and will have a facsimile of my Royal signature (in Chancella), and that of my Minister Secretary of State for the Finance Department; as also when issued, will be signed by my Minister at the Court of London, and by the President of the Commission of the Financial Agency. Such Bonds will be created by series of £50, £100, £200, £500, and £1000; and for the intermediate sums to make up the amount of every entry. Provisional Certificates will be granted, to be afterwards exchanged for Bonds, upon a sufficient amount of those

Certificates being presented; the Government paying in cash the minimum of the fractions which it is not possible to settle otherwise.

“ARTICLE VIII.—The redemption of the New Stock will be regulated according to the resources of the State, and carried into effect by purchases in the market; the Government reserving to itself the right of reimbursement by drawing the numbers of the Bonds by lot when they are at or above par.

“ARTICLE IX.—It is to be understood that the payment in cash of one-half of the Dividend referred to in Art. 4th, of the law of 17th October last, includes the Provisional Fund of 1836, to which is specially pledged the debt of Brazil, until the redemption of the same fund takes place agreeably to the conditions of the respective contract, if the holders of that Stock should not prefer to convert it according to the dispositions of the present Decree. The Minister Secretary of State for the Finance Department will have it thus understood and cause its due execution.

“Palace of Necessidades, 2nd of November, 1840.

(Signed)

“THE QUEEN.

(Countersigned)

“FLORIDO ROIZ PEREIRA FERRAS.”

SPANISH DECREES.

Madrid, Jan. 22.

The following decrees for the capitalization of the interest due upon the Home and Foreign Consolidated Debt of Spain, have been issued this morning in the *Gazette*:—

“DECREES.

“Queen Isabel the second, and in her name the Provisional Regency of the kingdom, decree as follows:

“Art. 1. In virtue of the authorization granted to the government by the fifth article of this law of the 17th April,

1838, and also by the second paragraph of the law of the 21st June 1840, paragraph the second, the interest due on the Consolidated Debt, interior and exterior, for the half-yearly payments anterior to the 1st January, of the current year, are hereby capitalized, and the documents issued instead, will, from that date, bear 3 per cent. interest, payable half-yearly, on the 30th June, and 31st December.

“ Art. 2. The holders of the Spanish Consolidated Debt will present their Coupons for conversion in conformity with the arrangement and notice of the Minister of Finance. The holders of ‘ extracts of inscription ’ will present the originals to be stamped with the seal of the payment of their proceeds, and for the issue of Bonds equivalent to them.

“ Art. 3. For the payment of the new interest, two millions of reals a month are to be set apart in the general distribution of expenses; the Minister of Finance ordering that this sum be punctually deposited in the sinking fund, under the personal responsibility of its director. The following month the sums delivered for this purpose are to be published, with a view to the making public the fulfilment of this project. In the event of the sums set apart for this object not being sufficient when the half-yearly payments become due, the deficit is to be made up by the public Treasury, in order to make good the entire payments. If, on the contrary, there should be an excess, the surplus will be employed in the amortization of the new documents by purchases to be announced, admitting sealed proposals for this purpose, and adjudging the purchase to the highest bidder. This operation will be entrusted to the Sinking Fund Office, which will execute it according to the instructions of the Minister of Finance.

“ Art. 4. According to the state of the monthly receipts set apart for the payment of the new interest, and deposited in the sinking fund, the Minister of Finance may authorize the same, for the advantage of credit, and without injury to the holders of the new conversion documents, to invite them

to discount this interest before due, under conditions favourable to both.

“Art. 5. The government will also present to the next Cortes a project of law, proposing the capitalization of the interest of the whole consolidated debt, which is to become due to the end of the year 1842, and in the same terms, provided in this period the government cannot pay in money.

“Art. 6. The bearing of the interest of the new conversion Bonds is to be understood as commencing from the 1st of the present month of January, for those who claim the conversion before the 30th of June next. Those who do not present their claims after this date, and to the 1st of December next of the present year, will not receive interest for the first half year, and the same rule will be extended to delays after the latter date.

“Duke DE LA VICTORIA.”

“To Don Augustin F. Gamboa.

“Madrid, 21st Jan., 1841.”

“Queen Isabel II., and in her name, the Provisional Regency of the kingdom decree as follows:—

“First and only article:—The Minister of Finance will present to the Cortes in the ensuing legislature, a project of law founded upon the following bases:—

“‘1. The re-establishment of the second article of the law of the 29th July, 1837, for the appropriation of the property of the secular clergy to the uses of the state.

“‘2. The administration of said property, by the offices of the finance department, the valuation and advertising the sale of said property, in conformity with convenience and the conditions of the decree of the 19th February, 1836, and of the instruction of the 1st of March, of the same year.

“‘3. The payment of the sums in which the said property may be sold as follows:—4 per cent. in cash upon the net value at the closing sales; 10 per cent. in consolidated debt, interior or exterior, or, if preferred, in 4 per Cents.; and 10 per cent. in coupons due, whether capitalized or not; and

binding the purchasers, at the time of closing the sales, to the following conditions:—1st. To pay annually 4 per cent. in money, 10 per cent. in consolidated debt, and 10 per cent. in coupons due, capitalized or otherwise; 2nd. To pay in like manner the next two years 4 per cent. effective, 10 per cent. in consolidated debt, and 10 per cent. in coupons; and, 3rd. To pay in like manner, during the three years, 4 per cent. more in money, 10 per cent. in consolidated debt, and 10 per cent. in coupons; that is to say, *to pay in the whole, 16 per cent. in money, 40 per cent. in consolidated debt, interior or exterior, and 44 per cent. in coupons, whether capitalized or not.*

“ ‘4. Authorising the government to allow as a general rule the purchasers to pay 24 per cent. of the purchase-money the third year, in paper of the consolidated debt.

“ ‘5. To intutilize in the act of payment and in presence of the purchasers the effects of the public debt delivered in payment, in order that they may be afterwards destroyed.

“ ‘6. Exemption for the term of the four succeeding years from the payment of the tax called *alcabala*, as is the case at present, in the properties so purchased, so that the transfer of such property during this period will not be subject to any taxation.

“ ‘7. The application to the support of the clergy and public worship of the proceeds of this class of property as long as it remains unsold.

“ ‘ Duke DE LA VICTORIA.

“ ‘To Don A. F. Gamboa.

“ ‘ Madrid, 21st Jan., 1841.’ ”

THE END.



